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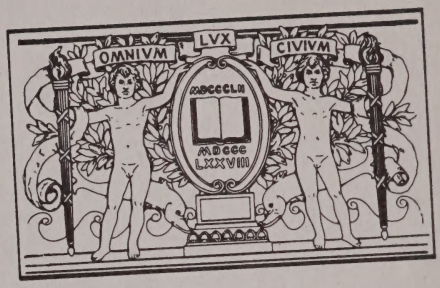

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NORTH AMERICAN REVIEW

AND

MISCELLANEOUS JOURNAL.

N°. XXVIII.—*New Series* N°. III.

JULY, 1820.

ART. I.—*Der Deutsche in Nord-Amerika.—The German in North America.* Stuttgard & Tübingen, 12mo, pp. 124. 1818.

THIS work is avowed in the preface to be the production of a German of rank, M. Von Fürstenwärther. He was sent to America by his half brother, the baron Von Gagern, representative of the German possessions of the king of the Netherlands, at the German diet, a gentleman well known to such of our readers as have taken the trouble to follow the train of proceedings at Frankfort, as one of those who must bear a full portion of the blame, which attaches to that assembly, of having said much and done nothing. M. de Gagern, in an anonymous introduction to the work before us, declares that the extent, to which emigration from Germany had reached, and the belief that in the present state of things this relief of the country labouring under a crowded population was rather a benefit than an evil, united with a desire of rescuing the poor emigrants from the sufferings and oppressions they had hitherto endured, were the motives for sending out an ambassador to the United States. The work accordingly consists of the instructions given by M. de Gagern and his associates to the ambassador, with extracts from the letters of the latter, both before and after his arrival in America, a report drawn up from those letters, and an appendix of various articles of information relative to the country, and the state of German emigrants in it. These letters, as we are informed by M. de Fürstenwärther

himself, in the second number of the Amerikanischen Ansichten, a respectable German paper lately begun in Philadelphia, were sent to the press by M. de Gagern, without having been designed by the author himself for publication.

The instructions consist of twenty-seven articles, of which the first seems to indicate, on the part of the gentlemen concerned in this mission, a tolerably exalted opinion of its importance.

'§ 1. You shall and will devote yourself *to the service of the human race*, and of your poor countrymen, whom want or the surplus population drives from Germany. And if destiny has precluded you from exerting in other ways a beneficial influence on the *fortunes of the nations*, your spirit may find its compensation in this.'

The instructions proceed to state, that the fortunes of the German and Swiss emigrants to America are but imperfectly known at home, and that many have attempted to call the attention of the German public to the subject. The mission of M. de Fürstenwärther is intended to clear up these doubts, and he is directed to begin his inquiries in the ports of the Netherlands, examining into the facilities for embarkation and the nature of the passage, and the situation in which the emigrant, particularly the poor emigrant, finds himself on landing. This last is a favourite topic of declamation with those of the German writers, who are employed by the governments to write down emigration, and to vilify America, in order more effectually to dishearten the emigrants. We have seen the most moving, and we may add, the most exaggerated accounts of the treatment of the redemptioners in this country, who are stated by these writers to be sold as slaves in the American markets. The ninth article of M. de Gagern's instructions indicates a more correct conception of the state of the case.

'§ 9. It has been said, that on the landing of emigrants without means, contracts of service are formed, by which the American pays the expenses of the passage, and remunerates himself by a term of years of service. In this there is no injustice, and it seems in fact necessary. But are the conditions on both sides, in general, observed?' &c.

The Rev. Mr. Weems, in his Life of Washington, informs us, that among the methods which the English officers made

use of to inspire their Hessian mercenaries with valour, it was usual to tell them that the Americans were savages, and made a rule of eating their prisoners. A relic of some such lurking fear seems to have dictated the 18th paragraph of these instructions, 'What are the relations of the German planter with the savages?'

The closing article in the instructions is thus conceived.

'§ 27. As there is throughout nothing secret in your instructions, you are at liberty to show them and appeal to them on all occasions. You speak in the name of a society of respectable and philanthropic Germans, and upon objects, which, if duly explained, must every where meet with open doors. We are resolved no longer to witness the scenes of suffering, which this year has produced, nor this perplexity of notions and plans. We wish to extend a helping hand to all, and to promote, with all our activity, the good of both hemispheres.'

This document being subscribed by M. de Gagern, as the minister plenipotentiary of the king of the Netherlands to the German diet, and fortified as well with the Dutch seal of state, as the private arms of the worthy plenipotentiary, may seem to deserve the formal notice we have thus taken of it.

M. de Fürstenwärther's first letter is dated Amsterdam, July 3, 1817. He thus expresses himself with regard to the condition of the emigrants in the Dutch ports.

'I have found the misery of the greater part of the emigrants greater, and the condition of all more forlorn and helpless, than I could have imagined. If our governments do not feel their obligation to do any thing to relieve it, humanity and the honour of the German name call upon you, to do something forthwith to relieve the present distress; and if further emigration is permitted in future, to devise some measures for its better regulation. On my journey hither, I encountered whole troops of returning families, who, deprived of every thing, were begging their way back. At Cologne the government [the Prussian] had made provision that a great number should be stopped, taken care of, and sent back to their homes. Inconceivably great however is the number of those unhappy persons in Holland, where all the towns are overflowing with them.

'The Swiss emigrants, in general, are best off. Their government concerns itself more for them. They do not lose their citizenship at home, as the Würtembergers do; *who are obliged to make a formal renunciation of it in the passport*, which they re-

ceive, to leave the kingdom. The Swiss, on the contrary, receive what is called a *certificate of home*, and if they find themselves deceived in their expectations and choose to return, are welcomed back with paternal kindness. Nay, in such a case, each one receives two Louis d'ors for his expenses back, from the Swiss consul, with an addition of three florins a week to the sick. The same indulgences are also enjoyed by the emigrants from the [French] provinces of Lothringia and Alsace.'

This humane and politic treatment of the unfortunate Swiss and French emigrants, forms a striking contrast with the neglect experienced, according to M. de Fürstenwärther's report, by the Germans, particularly the Würtembergers. We have been informed that a very onerous property tax, in addition to the renunciation of citizenship, is imposed on all emigrants from the kingdom of Würtemberg. It is possible that this cruel imposition may have been abolished by the present king, who gave a proof of his humanity on his accession to the throne, in the great year of scarcity, 1816, by selling the menagerie of his royal father, and distributing to the starving populace of Stuttgard a large quantity of potatoes, which had been amassed for his majesty's kangoroos and elephants.

From the sketch of contract for the passage to America, we extract the following articles.

'Such as are in a condition to do it, pay their passage in Amsterdam, a man or woman 170 florins or 68 dollars.

'Children under four years are free.

'From 4 to 14 years 85 florins or 34 dollars.

'From 14 years and onward 170 florins or 68 dollars.

'Those who are unable to pay in Amsterdam, and are to pay in America, are charged a man or woman 190 florins or 76 dollars, and under 14 and over 4 years half that sum.

'Every one, thus contracting to pay his passage in America, is bound to do it within ten days after his arrival. In case of death, if it happen when the voyage is more than half made, the surviving friends are holden to pay the passage of the deceased; if before the passage be half made, no passage money is to be paid.

'The provisions stipulated are dealt out on the principle of full portions to those who pay full fare, half portions to the half fares, and *children nothing*, as follows:—

'*Sundays*, a lb. of beef with barley two cups to five fares, [in soup, we suppose.]

'*Mondays*, a lb. of flour and a lb. of butter for the whole week.

'*Tuesdays*, ½ lb. fat boiled with pease, 3 cups for 5 fares.

'*Wednesdays*, a lb. of flour.

'*Thursdays*, a lb. of beef with potatoes, a quarter of a peck [Fass] to 5 fares.

'*Fridays*, ½ lb. of rice.

'*Saturdays*, ½ lb. fat with pease, 3 cups for 5 fares, a lb. cheese, and 6 lbs. bread for the week.

'A jug of beer and another of water per day: instead of the beer which sours, water is given for a part of the voyage. Moreover half the water assigned is for cooking.'

With regard to the persons, who conduct the trade of shipping these emigrants, we need add little to what is said page 343 of our last volume. It is enough to observe, that from the nature of the case, the commissaries employed in this business in the Dutch ports, are by no means likely to be Americans, and that the names given by M. de Fürstenwärther, as the names of the agents in this business, are all foreign. The following extract from a letter dated at the Helder, July 7, 1817, will give our readers an idea of the extent of this sort of business.

'I was this morning on board of a vessel, *formerly a Russian ship of the line*, which a Dutchman had bought on account of the Rudolfi whom I mentioned in a former letter, for the sake of carrying German emigrants to Philadelphia. There are already four or five hundred souls on board, and the vessel will not sail till she has her complement of passengers.'

The following facts may be new to some of our readers, and will show that the interest of these unfortunate emigrants would have been promoted, had there been more truth in the assertion of our brethren of the Quarterly Review, that this trade 'is confined to American vessels.' They are contained in a letter dated Philadelphia, Oct. 28, 1817.

'As soon as a vessel arrives with such passengers, it is immediately advertised by the captains in the papers. Mechanics and farmers, sometimes from a distance, repair to the vessel, select such persons as they wish, and pay their fare to the captain; and a particular contract is made, by which they are bound to service for a term of years. Commonly also the vessels are visited by some members of the German society under whose inspection these transactions take place. They also inform themselves, as to the treatment of the passengers on the passage, and institute a strict investigation if circumstances seem to require it: *but it stops here, except it be in the case of American ships.*

Not a year since arrived a Prussian ship with passengers, whose captain had been guilty of the most shameful abuses, particularly of the females, on board. The affair excited universal indignation in the city. An account of it reached Germany, and was inserted in the Gazette of Cologne, and orders were accordingly given to the Prussian consul, who arrived here a few days ago, to investigate the affair with the greatest severity, and report thereon. This summer also the treatment on board the brig Hope, captain Klein, of Amsterdam was highly reprehensible. I send you the protocol of the investigation.

'The German society proposes only to relieve and assist, as much as possible, the destitute emigrants. They have done much for their German brethren. But the number of emigrants this year was out of proportion of the means of the society. Their number is estimated at six thousand, and many more are still expected.' p. 19, 20.

We took occasion, in quoting the first article of M. de Fürstenwärther's instructions, to insinuate an opinion that the notions entertained by himself and the gentlemen who deputed him, of the importance of the objects of his mission, were somewhat too elevated. That this was not an unnecessary remark, may be confirmed from the following murmur from a letter dated Nov. 15.

'I am just beginning to be known, and am obliged to put up with taking many a fruitless step. For you are not to imagine that a very great interest is felt here in my mission. This does not lie in the American character.'

This is truly edifying; we have been so used to being complimented with these courteous salutations by our English brethren, that we had begun really to put on a little sad and sober diffidence, and doubt whether we were not after all a degenerate race. But to hear the deputy of the plenipotentiary of the Dutch king, at the German diet, because in seventeen days after he had arrived in Philadelphia from Amsterdam, without speaking a word of the language, his mission had excited little interest, to hear this worthy gentleman talking of what does or does not dwell in the American character, has cheered us up a little, and given us courage to encounter the flattering notice which our brethren at Edinburgh or London may take of the calumnies of the next shop-keeper sent out to explore us. Whatever they may now report to

our discredit, and however gravely their calumnies may be reviewed, we shall be able to say

τέτλαθι δὴ κραδίη, καὶ κύντερον ἄλλό ποτ' ἔτλης.

The following circumstance strikes as quite unexpected and curious. It is from a letter dated Baltimore, 26 Nov. 1817.

'There arrived this summer a ship from Amsterdam, addressed to Mr. Graff, one of the richest merchants in this place. A greater part of the passengers had not paid their freight. *Two families were bought by free negroes*, of which there is a large number in Maryland. This disgusted the Germans in Baltimore to the degree, that they, and among them Mr. Graff himself the consignee of the ship, without whose knowledge the thing had taken place, immediately re-bought them, and formed an association to prevent the recurrence of any such degrading abuse.' p. 27.

We add, from the same letter, the following fact, in regard to which we apprehend our author to labour under a mistake: the result of misinformation from the sugar-boiler.

'I have accidentally made the acquaintance of a German, who has been long an inhabitant of the state of Kentucky, and has established a sugar manufactory there. He has travelled through all the western states, and I am indebted to him for many notices. He assures me that this summer Germans had been engaged by speculators, and publicly sold at auction to the highest bidder, and, according to him, *Dutch* or *white slaves* is there a common expression.'

We are the more inclined to doubt a part of this anecdote, as we have observed our southern and western brethren to be very sparing of the word *slave*, even when applied to the blacks.

The following extract will give our readers some idea of the views entertained by the American government, on the subject of encouraging emigration. It is from a letter dated Philadelphia, Dec. 28, 1817.

'I have been presented in Washington by Tenkate [?] to Mr. Adams, the secretary of state. I should have gladly avoided these formalities, but could not well excuse myself. Tenkate had forewarned me that I should find in the secretary of state a dry and extremely cold man. On the contrary, I found him extremely polite and friendly toward me. He heard me at first, with great attention, and interrupted me afterwards frequently in the course of my remarks. I gave him your pamphlet. On my second visit, he asked me if I had instructions. I felt myself obliged in

truth to answer in the affirmative, and professed myself ready to show them. His reply in substance was as follows: 'That it had hitherto been the supposition of the government, that the European states, and particularly the German powers, were not pleased with emigration: and that therefore from motives of policy, and not to disturb the friendly understanding with such powers, it had not directly encouraged the emigration, or at any rate had avoided the appearance of wishing to encourage it. If however it could be made certain, that the German princes would throw no obstacles in the way of emigration, there might perhaps arise a greater inclination on the part of the American government to conspire with them in aiding it: though, added the secretary, rather out of kindness towards the emigrants themselves. For [this is the judicious remark of M. de Fürstenwärther] either from principle and conviction, or national pride, they have or affect to have, throughout America, a great indifference toward foreign emigration, and appear to be of opinion that, even without this aid, the population of the United States increases rapidly enough.' pp. 28, 29.

At the conclusion of the extracts from M. de Fürstenwärther's letters, follows a 'report on German emigration' to America, in which little is contained of moment, that had not previously appeared in the extracts. Some pains were taken in the Quarterly Review of Fearon, to impress upon the British public the belief, that the trade in the transportation of *redemptioners* was confined to ourselves, and the reviewer was so unguarded, as to assert in his own person, that 'the infamous traffic is confined exclusively to American vessels.' In our notice of Mr. Walsh's Appeal in the last number of this journal, we quoted the passage from his work, in which this false and injurious statement is refuted. The following testimony of M. de Fürstenwärther will settle the question, if it still remain one.

'It is usually Dutch, but occasionally also American, Swedish, Russian, and English vessels, which transport the emigrants to America. The ships made use of in this service are commonly of the worst quality, old, and unseaworthy, and the commanders sent in them ignorant, inexperienced, and brutal characters. *The American ships are the best, and deserve the preference before the others. They sail quicker, the treatment is better, and the responsibility of the captains is greater.*' pp. 33, 44.

Among the reasons which prevent the resort of this class of emigrants to New York, our author mentions a law of that

state, by which the captains of the vessels in which they come are obliged to give security that the emigrants shall not become a burden to the state or city.

Several laws have been passed in the state of Pennsylvania for the protection of the redemptioners, and M. de Fürstenwärther expresses his opinion that the provisions of these laws are adequate. He complains, however, that they are scarce pretended to be put in execution against foreign ships, and that they are but imperfectly executed against the American captains. Among these laws is one, which obliges the captain of the vessel to support the redemptioners *gratis* for thirty days after their arrival; after this period he is allowed to charge their board. In case the captain is compelled to bind out his redemptioners for a less sum than the amount of the passage, then the persons so bound out are obliged to enter into a farther bond, to pay the remainder of the debt, after the expiration of the first indenture. These indentures are made under the inspection of an officer appointed for that purpose by the government of the state, who keeps a list of all the emigrants, with a note of the place where they are bound. The extreme term of service in ordinary cases for adults is four years, and two years the shortest term. Children, under four years old, are not bound, but follow their parents, and are at liberty when the parents are. Males, over four years, are bound to serve till they are twenty-one, and females till they are eighteen years old. Six weeks' schooling annually is stipulated for the children, and two suits of clothes, one of which is to be new, at the expiration of their term of service. It is also provided by the law, that no redemptioner shall be bound out of the state of Pennsylvania without his consent; that man and wife shall not be separated but by mutual consent, nor children taken from their parents but in extreme cases. The efforts of the German societies are confined to pecuniary relief of the emigrants, who are wholly destitute, and their activity has been checked for want of funds. There are two of these societies in Philadelphia, one in New York, and one in Baltimore.

From the 12th of July, the day of the arrival of the first ship with redemptioners in 1817, up to the beginning of 1818, there arrived nineteen vessels, bringing passengers of this class to the number of more than 6000.

So far from looking upon this indenture as a hardship, our author expresses his opinion that it is a benefit to the needy emigrant, and says, that many even of those who pay their passage in Holland, bind themselves, in like manner, on their arrival here, for the sake of being immediately provided for in a strange land,—learning the language by going of necessity into an American family, and laying up in the purchase money a little capital for future support. Our author adds, that the treatment of the emigrants while in service is so kind and good, that just complaints are oftener made by the masters, that their servants run away, than by the servants that they are ill treated. Among the classes of emigrants most likely to be employed, our author enumerates masons, carpenters, cabinet-makers, wagonners, coopers, smiths, shoe-makers, tailors, and bakers; and as least likely to find employment, all those whose trades are connected with the arts of luxury. Persons of both sexes, from fourteen to twenty years of age, are most sought for, 'and it is a great folly,' says our judicious author, 'when women of eighty years old wander over, as happened in one instance last summer.' The greater part of the German emigrants remain in Pennsylvania, from which without their consent they cannot be carried. Our author however informs us, that he saw a letter from forty such persons, who had entered into indentures in Ohio, and who were contented with their treatment and condition. The following observation will show the correct and discriminating character of our author's observations.

'*A great part* of the population of the United States consists of blacks, *especially* in the Southern States. The German agrees but poorly with them. He is regarded by them, with envy and jealousy. It is degrading to the German name and character, to have the German stand on a similar footing with them. *The natural cunning of the Negro*, his superiour *dexterity*, and *fluency* in English, give him too great an advantage over the simple, good-natured German peasant. He considers himself [the Negro] as of a higher nature, and looks down upon the poor German. The latter is confounded in treatment with the blacks, nay is often treated worse." p. 55.

Our author, among other points, was instructed to inquire into the possibility of introducing an hereditary tenantry on large landed estates. He does not appear to have been informed of the state of our laws in this respect.

'Hereditary contracts between large landed proprietors and colonists, in the German way, are not usual. I am unable to assign at this time the particular obstacles, that may stand in their way. Meantime there seems a general prejudice against them, as a feudal institution. It is only in New York that such large proprietors enter into hereditary contracts with their tenantry, in the European manner, in which, however, they have more their own interest in view, than that of their tenants, [in Europe the landlord having in view more the tenant's interest than his own.] But these are only exceptions. In this free country, each one loves to possess a property of his own, and finds not only a possibility but a facility of so doing.' p. 64.

The following pretty tender question in our author's instructions—'Are the Germans esteemed in America?' is answered in a calm, impartial way, which we are sure will please our readers.

'Is the German esteemed in America? Personally he is esteemed, like others, without reference to their descent or nation, when he is rich or distinguished for public services. Schneider [Snyder], the last governor of Pennsylvania, was of German origin. The path to offices and posts of honour is open to every German. He is in general esteemed for his industry, frugality, love of home, for his honesty, and his peaceable temper; qualities which still characterise the German and his descendants in America, particularly the farmers. Pennsylvania owes to the Germans her universally acknowledged superiority over all the other states in respect to agriculture. The German emigrant is more welcome than the Irishman or the Frenchman. The last particularly are no favourites with the Americans. Personally, they are disliked, notwithstanding the public sympathy once felt in the fortunes and principles of the French nation.

But notwithstanding this, a great undervaluing of the German name and nation is evident in America. The Americans, themselves too young to deserve the name of a nation, possess nevertheless a national pride beyond that of any people in the old world, and look down with disdain on those [?] from whom the first germ of their improvement came. Of none however have the Americans a poorer opinion than of the Germans. The main reason of this is perhaps the political insignificance of the German nation, and the consequent want of conscious importance and of arrogance of its individuals; to which cause also it is to be ascribed that so little justice is done to the Germans by the other European nations. With no land have the Americans had so few important relations, as with Germany. For want of other means of infor-

mation, they judged of her from the degree of improvement, from the character, and the external appearance of the individuals, whom they were accustomed to see landing on their shores, of whom the mass certainly was not calculated to give them a favourable opinion of their country. The number of Germans of education who have visited this country or settled in it was always very small. It is finally undeniable, that the irregularities and abuses in the emigrations of the last years, the wretched condition of the greater part of those who arrived here, and their still more wretched moral condition, tended highly to strengthen these unfavourable impressions.' pp. 68, 69.

The emigration from Germany to Pennsylvania began very early. In the time of Penn, Germantown was founded by a colony of emigrants from Griesheim in the Palatinate. In 1717 the emigration was so great, that the governor of the province expressed his apprehensions of the evil consequences, which might result from having too many foreigners contiguous to each other, or, on the other hand, too many scattered separately among the Indians. In 1754, there landed 5000 emigrants in Philadelphia ; but we apprehend our author to have been misled by his authorities, when he supposes that half the population of Pennsylvania is German or of German descent.

The German language is fast disappearing, particularly in the large towns, and no person is allowed to sit on a jury in Pennsylvania, who cannot understand English. According to our author, the children of German parents are commonly ashamed of the country and language of their fathers, so that in the third generation, at the present day, the traces of their origin disappear. This disinclination is greater in the higher than in the lower orders of society, and in this respect, says M. de Fürstenwärther, the German society at Philadelphia is unworthy at least of its name, as a greater part of its members are desirous of having its transactions in English.

Our author complains that the German language is not kept up in its purity in America, but is fast passing over into a corrupted English dialect. We doubt not this remark is just, but we take the liberty to observe that it comes with no very good grace from M. de Fürstenwärther, whose own pages teem with words unacknowledged by the present standards of his native language. In the very sentence, in which he announces the transition of the German into a corrupt English dialect, he uses a barbarous word himself, and his

pages are full of such terms as *details, prekœr, supponirt, disponibel, progressive,* and *nivellirend,* none of which ought to find admittance into the works of a correct writer of the German language. There are nineteen German newspapers in Pennsylvania, and two in Ohio and Maryland.

Under the head of religion, M. de Fürstenwärther informs us, that there are eight hundred German churches in America. He complains of the gradual encroachments of the English language upon the pulpit. The Germans in America, according to his statement, evince much piety and religious zeal. The preachers complain that the brethren from their native country, who have arrived within the last thirty years, are deficient in this respect, *and set their faces against preaching three times a day.* His remark that there is no theological faculty at the American universities, is singularly unfortunate, since it has been perhaps the fault of these establishments, a fault, if it be one, growing out of the nature of things, to have given a disproportionate share of attention to theological education.

M. de Fürstenwärther, whom we have observed in a contemporary German paper, the Deutscher Freund, published by Dr. Schæffer of New York, to be charged with a little aristocratical feeling, seems to hint with no great complacency at the political notions of his countrymen in America.

'The German in America, particularly in the country, distinguishes himself for a trait of character not known at home, and for which he is there not thought calculated, I mean as a zealous democrat, though still as a quiet citizen. I cannot but add, that this new trait in his character, by being associated with certain other old and permanent features, is far from rendering him more amiable. The Hessians who, in the war of the revolution, served in the English army, and of whom the greater part remained in America, are said, in this respect, to distinguish themselves in a peculiar manner by their strong democratic politics, rudeness, coarseness, and obstinacy.' p. 79.

Our author, p. 79, &c. gives an account of the colonies founded on a large scale by foreign emigrants. That of Harmony under Rapp is curious, but is well known to our readers from Melish's travels, Birkbeck's letters, and other sources.

'The Swiss colony called Vevay on the Ohio was founded in 1813. In 1814, the spot where the little town of Vevay stands,

was covered with wood. In February of that year the first house was built, and there are now (1817) more than eighty houses, with several public buildings. A newspaper also is printed here. This colony, as well as that of New Switzerland, also on the banks of the Ohio, has cultivated the vine with success. Their wine is placed by the side of the best claret.' [?]

M. de Fürstenwärther, after a residence of four months in America, to which he probably came unacquainted with the language, as we infer from the delight with which he scatters about his English words when his own tongue affords those which are perfectly synonymous, and after having travelled throughout the whole of America from Philadelphia to Washington, a distance of full one hundred and fifty geographical miles, closes his report in the following highly pungent and philosophical strain.

'With such advantages, on the part of the United States, which every impartial man will recognize with me, and with all the facility, particularly of the material life, I cannot conceal some defects and dark sides. In this country there is no idea, nay not a distant suspicion, of a higher and finer existence, at least on this earth. There is a want of every thing which can adorn and ennoble it, of every variety of better enjoyment and entertainment. Coarse materialism and interest are the character and leading principle of the inhabitants :—A want of sociality, contemptible pride, reserve, and coarseness, discover themselves in the multitude, and repel the European of education and feeling. Such an one will of course feel himself at first extremely unhappy and solitary in this country; it cannot please him. Although there be much in Europe, that he cannot and ought not praise, comparisons, which he will have daily occasion to make, will force from him the silent or open confession that still much is better there. If the Americans are justly proud of their civil freedom, and of their freedom in thinking, speaking, and printing, and in the social life, they still know not that higher freedom of the soul which is to be found only in Europe, *and I say it boldly, most abundantly in Germany.* With all their freedom, they are still slaves of their narrow views, of their ignorance of every thing but what is local and practical, and of their national prejudices.

'Such are the impressions of all on their arrival in this country, such are the coinciding feelings and judgments of all, even long after their arrival. By degrees only do they get used to the country, after they have formed to themselves a sphere of their

own, or after their gradually awakening pride as free citizens extinguishes the recollections of the advantages of their native land.' pp. 90, 91.

On the first perusal of these spirited remarks, we were, to use an expressive vulgarism, at a loss to know what the author would be at. We felt, to be sure, a becoming sympathy with M. de Fürstenwärther, in the distressing necessity in which we supposed he found himself of making a flourish, and softening to himself the bitter pill of 'freedom in thinking, speaking, printing, and social life,' which must have been so oppressive to a native of the Palatinate. Still, however, we did not exactly understand, why America should pay so heavily the penalty of his annoyance; when it would have been quite as eloquent and sentimental to abuse the French or the English, who have, it seems, but an inferior portion of that 'higher freedom of the soul,' which is 'for the most part only found in Germany.' But we are helped to the key of these fine sentences, in the publication of a countryman (in descent and language at least) of M. Fürstenwärther, the Deutscher Freund, to which we have already alluded. The passage is worth translating. After quoting the sentences which we have ourselves just given, the respectable editor of the Deutscher Freund adds, 'Indeed "where such defects and dark sides exist," things must, to be sure, be in a bad condition. But how thankful ought not we Americans to be, that after all we are no such moles, as the author would make us. It is some comfort to us poor beings, that there are also just descriptions of the American character in Germany. They know very well there, "that there is a want" of a nobility in America, but at the same time they have proofs enough there that we have in this country some "ideas and suspicions of a higher and finer existence." God be thanked we have much here, on this American "earth," calculated "to adorn and ennoble life." An order of nobility to be sure we have not. In American the little word *von* is not necessary to make a man noble.'

An appendix of twenty or thirty pages, concluding with a pompous epilogue from M. de Gagern, closes this work. We have but a few remarks to make on the general subject.

The first is, that we cannot but wish our government might find it politically expedient, to hold out all fair and reasonable encouragement to European, particularly Swiss

and German, emigration. We somewhat doubt M. de Fürstenwärther's authority for his 'especially,' attached to the German princes, when he says Mr. Adams mentioned an unwillingness to offend the foreign powers, as the cause why emigration is not encouraged by our government. So that England, and France, and Russia took no offence, we imagine little anxiety would be felt by Mr. Adams, about what might be said of his policy at Stuttgard or Carlsruhe. But we cannot suppose that any of the German princes, surely that any one who has read M. de Fürstenwärther's book, could object to those measures at least being taken by our government, which would save the thousands of their poor loving subjects, which emigrate, from rotting on the passage or starving in the streets of Philadelphia and Baltimore. We are willing to go farther, and to say that we think our country a gainer by this emigration. We have land enough to support, and government enough to rule millions more than our country yet contains;—and though we are far from thinking very highly of that 'finer freedom of the soul,' which the German redemptioners bring with them, we do not know but they will stand a tolerably fair comparison with our own domestic emigrants. They will want to be sure the Yankee enterprize and industry, which M. de Fürstenwärther well assigns as a reason, why they should not attempt to serve as pioneers, on the great march of population toward the west: but they are labourers, orderly labourers, and bring with them a better agriculture than they find. It has sometimes occurred to us that German redemptioners might be made the means of gradually rooting out negro slavery from among us. Every one, who has speculated on the great problem of emancipation, has felt that the case in America presents a difficulty unknown in the abolition of English villeinage, or the ancient Roman servitude, viz. that of procuring a regularly and gradually increasing supply of white labour, to take place of the gradually diminishing amount of black labour. We suppose that no free white would labour on a plantation, certainly not in a field, partly tilled by negroes. And thus it is impossible to take the first step. But here is a practicable mode of obtaining a supply of labour, to which this difficulty would not apply, and which is likely to be much more productive and efficient, than the purely involuntary labour of slaves. A supply of this kind would tend to

diminish the demand for slaves, and of course to check their increase, and in this only way lead to the gradual disappearance of the colour. For we are convinced that every scheme of colonization, if it do not act as a bounty on the multiplication of blacks, can have no effect in diminishing their numbers in this country. The inevitable tendency of colonization will be that, which is so much deplored in poor laws, that of being regarded as a resource and provision for a certain amount of blacks, and thus directly encouraging their increase.

The objection, that the general cause of humanity would gain little by the substitution of a degraded class of the German white labourers, in the place of the black ones, disappears, when you recollect that the great difficulty in abolishing negro slavery, is the colour. You can do nothing with the man when you have emancipated him ; he is an inferior marked person, with whom you will not associate nor amalgamate ; and who, in large numbers, bound together by this strong physical bond of community, may prove no agreeable member of your body politic. Once remove the obstacle of colour, and the physical inferiority that commonly goes with it, and the case of American slavery would be that of English villeinage and ancient servitude all the world over :—And the redemptioner, in a few ages, might grow up into an enlightened citizen, by the same process, which has turned serfs and vassals into nobility, and gentry, and clergy.

We have been unable to suppress our vexation at the narrowness of view, betrayed by M. de Fürstenwärther and his friend M. de Gagern, in wishing and striving to keep up the German peculiarities of their countrymen in America ; in sighing over the corruption and approaching loss of the language ; and in projecting plans for counteracting the causes by which their amalgamation with the country in which they live is brought about. By what inconceivable perversity are these gentlemen brought to think, that it is an advantage to speak a language which your neighbour cannot understand, to be ignorant of the language in which the laws of the land you live in are made and administered, and to shut yourself out, by a judaic nationality of spirit and manners, from half the social privileges of life? M. de Fürstenwärther doubtless laments that a pestilent uniformity of language has taken place in Germany, to the confounding of those val-

uable dialects of Celtic, Teutonic, Wendish, Magyar, Roman, and Turkish, which have penetrated the interior, or skirted the borders of his native country in various ages. How unfortunate that the descendants of the Picts and Scots, Danes and Normans, do not each speak the language which their ancestors spoke one or two thousand years ago in England; and how enviable the condition of that state, which M. de Fürstenwärther's half brother represents in the German diet, we mean the kingdom of the Netherlands, where the orators in parliament are obliged to debate in French, Dutch, and Flemish! Though we must own we think this latter circumstance might have a happy effect in our country, in diminishing the zeal of debating, that sore evil in the land. Were our leaders in Congress, who think it incumbent on themselves to make a long speech on every question that comes up, obliged to translate their harangue, first into Chickahominy, and then into Kickapoo, we apprehend it would prove a damper even to Mr. Randolph himself. We are not sure, in fact, that an attempt is not making to introduce this excellent practice of polyglot debate; having, in the reported speeches of the last session, observed many words and phrases utterly foreign to any of the meagre list of languages with which we happen to be conversant ourselves. Till some such practice, however, be introduced, we recommend to all German and other emigrants, and particularly to their superiors who advise them, instead of wishing to cherish and keep up their peculiarities of language and manners, to get over and forget them as soon as possible; remembering, that from the days of the tower of Babel to the present, confusion of tongues has ever been one of the most active causes of intellectual and political misunderstanding and confusion.

Did we not fear that our comment had already outrun the importance of the text, we should hint at the state of things in Germany, disclosed by this prodigious emigration. We passed, not a year ago, through the kingdom of Würtemberg, and along the banks of the Rhine, the countries from which the great march of emigration proceeds. All Europe does not afford a finer and more lovely land: the highest cultivation, the finest forests, the richest products, the best roads, every thing which would seem to belong to a happy country; all those advantages which we suppose M. de Fürstenwärther means by his 'material existence,' and in which we really

wish we were as well off as he describes us. Yet it is from these delightful regions that every one, who can ride or walk away, from children at the breast to women eighty years old, is flying as from a pestilence, not tempted to stay by that fine freedom of the soul, of which our author will have it there is so much in Germany. Now we apprehend that it is precisely those fine moral comforts which are wanting 'in Europe, nay we say it boldly, in Germany most of all.' In some parts of Europe there is more wealth, in most there is more artificial refinement, and more learning, than in America; but in none is there much freedom either of soul or body; most in England, but not enough there. The tyranny is of a different kind in different places. In one it is the disproportionate wealth of the aristocracy, as in England; and in one it is the unbalanced despotism of the government, as in Germany: but in all it is freedom, liberty, confidence, equality of rights, when there is equality of merit, which are wanted: a want which is poorly supplied by pictures and statues, by fleets and armies, nay by fine poetry and prose;—though these are all excellent in their way.

ART. II.—*Letters from Geneva and France, written during a residence of between two and three years in different parts of those countries, and addressed to a Lady in Virginia, by her Father.* Boston, printed for Wells & Lilly, 1819.

A BOOK of travels written by a countryman will probably be more useful, and will certainly be more interesting, than one of equal merit by a foreigner; it places us more immediately among the scenes he describes; things, which would strike us as most strange, appear so to him, and the community of feeling which exists between us and the author prepares us to refer manners, men, and things to the same standard. In reading the works of those who have been bred up under institutions different from ours, and in a different state of society, especially works which dwell so much on domestic and familiar topics as books of travels, we are often not sure that we rightly understand the author, that he measures things by the same scale that we should, that he does not think highly of what would seem mean to us, that he does not approve or excuse what we should condemn. We are not sure that he does not pass over a thousand things, which would strike us as pecul-

iarities, but which he has been used to at home.—These remarks would hold in any country, and be true of an Englishman who should read the travels of a Frenchman, and of a Frenchman who should read the travels of a German. Still there is a greater similarity between all the countries of Europe, than there is between America and any of them, and that interest which a citizen of any nation, for the reasons we have stated, feels in a book of travels of a countryman, is much increased in the case of an American. We cannot trust them abroad to speak of each other; or always understand them when they do.

We have been led to these remarks by the contrast of the chaste and high-toned moral feeling pervading the work before us, with the flippancy and profligacy of some late European works of the same kind. It is the production of one of our fellow citizens in the South, who, from some cause which, in his preface, he invites and leaves us to conjecture, has not exhibited himself on the stage of public life, where talents and acquirements like his would have found a proper field for their exercise.

The first volume contains a concise and well arranged history of Geneva, a remarkably fine description of its scenery, and a fair and impartial account of its manners and customs. The author is a man of much observation, and there is at once a strength and ease in his descriptions, which we have seldom seen surpassed; indeed we do not remember any writer who retains his original sensations with more freshness, and commits them to paper with more of the glow of the first impression. It needs but few pages to show that he is possessed of much more general information, and of a more minute and thorough acquaintance with classical literature, than a majority of those who have undertaken to amuse or instruct the world by their letters, travels or histories. He quotes frequently, but with a better purpose than to show his reading, and makes his varied and extensive knowledge subservient to the illustration of every subject he touches. There is often wit and always pertinency in his allusions.

Having risked our opinion in our author's favour so freely, it may be proper to bring him to confirm it. The following description of Mad. de Staël conveys a lively idea of her manners, and every one, who has read her 'Germany,' will acknowledge the justice of the critique on her writings.

'The first time I saw this celebrated lady was in her Castle of Copet, and when her mind was as yet strongly impressed with the loss of her father, of whom she never speaks but in terms of the highest affection and veneration. She was surrounded, as usual, with a company of men, who hung upon all that she said. By degrees, her natural cheerfulness prevailed, and placing herself very much at her ease, with her feet resting upon an opposite chair, she ran on in a flow of lively conversation. She speaks, I think, even better than she writes, and is never at a loss for the happiest expressions, colouring every thing after a manner peculiar to herself, and deviating, at times, into anecdotes and descriptions which might offend your chaster ears, on the other side of the Atlantic. Her person is of a middling size; her features are not all of them good, and her complexion is bad; but she has a certain roundness and amplitude of form much admired and aspired to in this country, with a good natured, lively countenance and very fine eyes. With many of the graces of her sex too, and with a natural desire for those triumphs and that admiration they are entitled to, she rather unwisely goes over to the other sex on some occasions, if I may use the expression, in her conversation and manners.

'The writings of Mad. de Staël bespeak an ardent imagination, a warm heart and a considerable fund of various literature. She writes, in general, from accurate observation, or where her means of information fail, she guesses more happily than most people; confounding sometimes, however, it is said, argument with truth, and the art of reasoning with reason itself. Her system of liberty too might probably end in slavery, and her philosophy in ignorance, and her vision of perfectibility is contradicted by the experience of past ages and the events of the present.

'Her intended tour in Italy, next winter, will probably furnish her with materials for an interesting work, and particularly so, if she could submit to what she supposes a very inferiour department of literature, and would simply convey to her readers the impressions made on her own cultivated mind.'

We sometimes meet with writers who give us animated descriptions of the scenery, manners, and habits of the people they visit, who have observation and judgment enough to glean all that may be necessary to give us a bird's-eye view of society, but who go no farther; who do not travel out of their way to draw comparisons or inferences, nor trouble themselves with tracing character to its sources, and investigating the modifications it receives from national customs or the peculiarities it exhibits in them. Now we do not, entire-

ly, object to this, for it has saved us from many prosing essays and profound disquisitions, which would have left us about as wise and not quite as patient as they found us; but such writers cannot take a high stand in this golden age of literature; they can furnish materials for the speculations of philosophy and theories of political science, and must be content to be useful without being very famous. To them, the remark which just closed our quotation, may be properly applied; let them describe the manners, laws, and institutions of the people they visit, and they will be useful; and let them describe the effects produced on their minds by the objects which surround them, and if they have even a moderate share of talent, they will be sure to engage the attention; for things so strange and manners so different, as those of one nation must be from those of another, will produce an excitement of feeling and new sensations, differing in different persons, and interesting in all. But let them stop here; above all, let them avoid analysing national character. We have been surfeited with descriptions of greedy, polite, fierce and fawning, tiger and monkey Frenchmen; of proud, independent, bullying, factious Englishmen; of dull, purse-proud, indefatigable Dutchmen; of heroic, sentimental, metaphysical Germans; of voluptuous, refined, degraded Italians. Of these we have had enough, and more than enough; but, as we before observed, let travellers describe simply the manners of the people they visit, and their readers will generally have formed a character of them full as vivid and probably more accurate, than could have been given them by a systematic analysis. But it is not for a mind like that of Madame de Staël to be tied down with such restrictions; she was formed to rise higher and pursue a more brilliant career, exciting admiration by her beauties, and almost repelling criticism by the dazzling radiance which genius and imagination have thrown around her; and perhaps it is not of consequence to inquire if we receive much improvement from what so much delights us. Besides we are not certain that as much good, though of a different kind, does not sometimes result from an impetus thus given to the feelings and imagination, as we should gain by sober instruction on points of fact.

The forms of society in Geneva do not differ much from our own; their sunday evening parties, however, produce more familiarity of intercourse, and an ease of social life to

which we are strangers. In their tea-parties, in the first of the evening, a circle of ladies sit guard round a huddle of gentlemen; at a certain hour, a table is introduced with the tea equipage, and cakes and pastry are handed round; to this succeeds a number of card tables, and here is manifested the talent of the lady hostess, in arranging her company.

'It has made me sorry,' says our author, 'upon such occasions, to see a delicate and pretty woman toiling through a numerous company, with a pack of cards in her hands, inviting some and soliciting or commanding others to draw a card and to take their places; but it has been afterwards consoling to behold her resting from her labours, as she sat with self-complacency surveying the various groups she had so skilfully arranged. Bonaparte reviewing his army after they had crossed the Alps could hardly have been more gratified. There are private balls also, from time to time, for dancing is a very favorite amusement, and it would be very agreeable to be present at them, were they not so crowded; but one would think that every body here was of Miss Larolle's opinion, when she talks with delight of having been so squeezed at a ball that she could hardly breathe.'

We are not much pleased with the following account of the manner in which the Swiss settled their religious disputes. It seems to be carrying into things which ought to be safe from its intrusion, that cold and selfish prudence which is the dark side of the Swiss character.

'Nothing, perhaps, is more expressive of that ancient good nature and good sense, of which there are such valuable remains in Switzerland, than the peaceable and friendly manner in which the important question of religion was decided at the reformation. Having heard, as they supposed, all that was worth hearing on the subject, the people of each village and neighbourhood assembled on a day agreed on, and put it to the vote whether they should be catholics or protestants; nor was there an instance of the minority making the least opposition to the decision.'

This may be a very 'good natured' way of settling a question of such importance, and might be a very good way if a man's conscience could be tied to his neighbour's hands; but it would seem that religion could scarcely have had its proper influence over their affections and judgments, when the mode of its observance was so indifferent to them. They might have shown more good sense, and as much good

nature, by agreeing to worship, each in his own way, without molesting his neighbour, or insisting on his adoption of the same mode with himself.

We meet with a singular instance of the little importance so lately attached to America, in Europe. Our author, in conversing with a French general of division, was astonished by the inquiry whether the Americans were really a sovereign independent people or not;

'We are too apt,' says he 'to overrate our importance, as the fly does in one of Æsop's Fables, and perhaps are not so superiour, as in our insolence of youth we are led to suppose, to what we are pleased to call the decrepitude of Europe. Fauchet gave a sad picture of us, and so does Volney. But the time will come, I trust, when the ardent spirit of money making will be more under the control of integrity; when every sort of intellect will have its occupation and meet with its reward; when we shall have poets and historians of our own; when the Belles Lettres of foreign languages will be more diffused, and when we shall blush that it should have been proposed in Congress to declare ourselves the most enlightened nation on the globe.'

We are not disposed to be ill-natured, and quarrel with our author for the expression of feelings, which were very common when this was written, and which by having become incorporated with general political views, were often avowed unconsciously, without a man's giving himself the trouble to think whether he really felt and thought as disparagingly of his country, as he pretended to. Did we not think this explanation sufficient, we should ask what good purpose can be served by appealing to such incompetent authority as Fauchet and Volney: and, moreover, what moment more unlucky for quoting the judgments of respectable foreigners of America, than after having just recorded the anecdote, that a general of division had asked 'whether we were not still colonies?' With respect to having poets and historians of our own, we should like it as well as our author. Meantime it is some comfort that we have them at all: and that we have a right to call the greatest masters of English literature our countrymen. In fact we know not why we have not as fair a right to congratulate ourselves on our affinity with those distinguished authors which have written in our native language, since our fathers left England, as before. If the glory of their works belong only to their actual authors, then it is no

more credit to be of the same nation, town, or street than of the same hemisphere: If this glory, however, extend beyond the actual author, then we humbly think it is to be shared by all who are born to his language and who read, understand and admire his productions. We suppose that, in proportion to our population, Lord Byron and Walter Scott are more read in America than in England, nor do we see why we are not entitled to our full share of all that credit, which does not rest incommunicably in the person of the author. Nor do we know any principle which shuts out America from this citizenship of the English literary republic, which would not shut out half the towns and counties in England.

In the second volume our author carries us to Paris, and we must confess he does not please us so well as in the first. If we recall the excitement of feeling on political subjects, which existed in our country at the time these letters were written, the reason of this will readily appear; there are few of us whose prejudices have not been weakened and political feelings softened, since that time, and letters written under the influence of those prejudices and feelings in their full force, find now but little in us to correspond to them. Nor do our views of the French Revolution at all coincide with his. We make this reflection in the simple confidence of fact, without being deterred by the unfavourable remarks made in a respectable quarter on a quotation in our last number of Geoffroy's observations upon Buonaparte's accession to the throne of France. We shall not contest the propriety of calling those observations of Geoffroy 'an extravagant eulogium;' we called them a piece of 'adroit flattery' ourselves, and having just observed that Buonaparte had 'no sentiment of true greatness,' we thought we might venture on the quotation without a *caveat* at the end of each sentence. And we would suggest to the respectable author of the criticism to which we allude the expediency of so much liberality of interpretation, as will still make it convenient in all similar cases to dispense with such narrow minded and timid reservations: and not while he commends us for political catholicism insist that we shall exercise it only in his way.

To return to our author, Geneva was for a time the place of his education, and associated with the enjoyments of his youth; we can pardon him, therefore, for the feelings with which he views the French revolution in its effects on a place which he seems to consider almost as his home; for it de-

stroyed its commerce, overthrew its independence, and in some manner changed its character; and any change would, probably, seem to him to be for the worse. But we are not pleased with the manner in which he refers to the revolution on other occasions and his blindness to the benefits arising from it. Great as were the horrors it produced, much as every principle of religion and virtue and every feeling of humanity were violated in its progress, and deep as were the moral corruption and degradation it caused, it certainly has resulted in benefits which in this country and at this time of day it ought not to be necessary resolutely to deny.

The same strong good sense, which characterises in general our author's remarks on Geneva, is evinced in his observations on what he sees in Paris. He carries us rather too minutely through the description of its public buildings, for scenes marked by the perpetration of such atrocities as were the greater part of them, are familiar to most readers, and they excite in him too much of that feeling to which we have just alluded, which gives an appearance of prejudice to his remarks on the nation. The Louvre, of course, would be one of the first objects to engage his attention, and the following remarks on its architecture and paintings are quite characteristic of his manner; without the least pretension to connoisseurship there is a freedom in his criticisms which reminds us of Simond; they are the remarks of one who judges for himself, and does not make it a point to admire because others do, and who is not afraid to ridicule what appears to him ridiculous.

'The *façade* of the Louvre is, as I have mentioned, worthy of all that has been said of it. It is a handsome front, in which every ornament is connected with some apparent utility; the columns seem such as the weight to be supported requires, and the whole is a compound of uniform and regular simplicity. It is singular that every art should, in its utmost improvement, approach so near, in some respects, to the simplicity at which improvement began. It is so with architecture and so certainly with music, which, never, I have often had occasion to observe, commands such universal attention, as when, like Rousseau's, it belongs to that species of simple melody, which one might suppose to have been the music of Nature. The same observation might, perhaps, be applied to the manners of private life; the utmost refinement of which is to place every one at his ease; and yet, such probably was the case in every assembly of sav-

ages, before improvement commenced. In poetry too, the most difficult of all arts, one principle requisite of perfection is an apparent facility which seems the inspiration of nature. * * *

'At the flight of the holy family into Egypt we readily admit them to have been under the peculiar guidance of Providence; but the subject, all sacred as it is, is rendered almost ridiculous, by the representation of a great, stout, well made, broad shouldered angel, who walks before, and leads the ass by a halter.'

The above observation is a part of his reply to the opinion of d'Alembert, that nothing should be introduced into poetry, which will not bear representation or canvas. He quotes also the line of Goldsmith,

'Comfort came down the trembling wretch to raise,'

as conveying a very agreeable image to the mind, which, still, would not bear to be made the subject of painting. We are not sure here that Goldsmith in this line intended a distinct personification, or meant any thing more than a metaphorical use of language so common as to have lost its immediate signification.

We are inclined to agree with our author, in his general dissent from the theory of d'Alembert, that nothing should be admitted into poetry, that would not look well in a picture. Theoretical comparisons like this seldom sustain themselves in point of fact, and when applied to practice are of no value. The laws of imitation in the different arts are wholly different. Experience proves this, without our always being able to tell why. In Lessing's Laocoon, an attempt is made to ascertain this very point, with regard to painting and the other arts; but the discussion soon loses itself in metaphysical refinements, which never aid the amateur in forming a judgment in actual cases of works of art to be estimated or compared. There are, no doubt, many things which poetry would exclude, not *because* painting would exclude them, but on account of some quality which, in itself, makes them unsuitable for either. On the other hand, each may admit what the other would exclude. A human figure would look but oddly in a picture, without a nose; and yet we remember to have heard a question raised by one of the most distinguished living poets, whether the word *nose* could possibly be admitted into serious poetry, without an unpleasant effect. It needs but a hasty comparison of the descriptions of beauty, in the poets of all nations and ages, to see how instinctively the mention

of this prominent feature is avoided. The same may be said of the arts of painting and sculpture; it is impossible to reason from one to the other, and there are innumerable things which are beautiful in each, which the other excludes. A statue painted of five or six different colours, like a picture, would be as ridiculous, as a picture all white like a statue. Yet no metaphysical reason can be given why an imitation on canvass should admit colour and one on marble exclude it. This comparison goes beyond colour. Painting seeks to multiply, vary, and spread out her creations; she loves floating garments, and waving scarfs, and the contrast of forms defined. Statuary, conscious of the inflexibility of the material which she works on, would contract and compose her forms, and reduce them as nearly as possible to a grave, we had almost said a lifeless simplicity. She disdains colour; every thing like dramatic attitude is an abomination. One need only compare the ancient Cupid and Psyche with that of Canova, to feel, notwithstanding the beauty of the latter, how much more chaste and elevated was the ancient taste in this respect. We make these remarks at the greater length, because in some public discussions on the statue of Washington, to which the article on Canova in our last number gave rise, we observed that the argument from painting to sculpture was constantly made use of; and the authority of Messrs. Allston and West, to whose opinion in a question in their own professions, particularly to that of Mr. Allston, none would yield a more unhesitating deference than ourselves, was appealed to as decisive of the question. Whereas the laws of imitation in the two arts are so wholly different, that, considering the natural tendency of the human mind to judge on all subjects from the principles with which it is most conversant, we should feel rather induced to receive the opinion of a painter on a statue with some distrust:—Thinking that whatever advantage he possessed from having made the forms of the sculptor his study as an exercise in drawing, this advantage was at least counterbalanced by the habit of applying the knowledge so acquired, according to principles of imitation wholly different.

The Laocoon and the dying Gladiator, excited only disgust and horror in our author's mind, and he wonders why people should throng to view objects which can raise only such painful feelings. It is the same principle which filled the Roman

amphitheatres with crowds to witness the cruelties which the statue represents, and to behold hundreds of fellow beings torn and mangled by wild beasts; which sends Spaniards to the bull baiting and Englishmen to the boxing ring; which sends us to witness the mimic horrors and sufferings of tragedy, and would send us to witness the reality of it; it is the combined operation of the love of excitement and curiosity, which furnishes the only answer to this paradox of receiving pleasure from witnessing suffering.

We will add a few extracts, as specimens of our author's manner of description. Speaking of the opera at Paris,

'But I am shocked to hear a hero sing. All the eloquence of the poet cannot reconcile me to such degradation in the persons of Hector and Achilles, and much less so, in those of Cicero or Cato; and what think you of Regulus, who, after having urged his countrymen, upon the most solemn and important of all occasions, to watch over the dignity and safety of the state, turns round and gives them a song before he ascends the Carthaginian vessel? In modern operas, however, we are not shocked with such inconsistencies. The story is generally taken from some old romance or the Arabian Nights Entertainments, or the heathen mythology; and the music, for which a certain number of lines of certain length have been ordered, condescends, as little as possible, to borrow aid from sense. The wonders which we read of in the Dunciad are here to be seen in all the perfection of extravagant absurdity. The angel of dulness here plants his standard, and scatters his magic charms in profusion. Monsters and gods, nymphs, shepherdesses, and furies are seen to dance or fight as the case requires; it sometimes happens, too, from the course of the story made use of, that the horrors of the infernal regions are laid open; the damned are seen rolling about in flames and sulphur, and over them, at a distance, the mind is consoled with a view of the elysian fields, very much in the nature of a Mahometan paradise; and this medley of absurdities, ending as Pope says, by

"A fire, a jigg, a battle, and a ball,"

is received with as much applause as the victory of Austerlitz.'

Speaking of the style of opera dancing, he says,

'It is what Young calls a tempest of agility, a violent exertion of bodily force, a turning round with velocity, and jumping as high as possible to light on one leg; like those leaden figures of Mercury you see on houses or on walls; and all this is attended with an exposure of the person in the female dancers which ad-

mits of no description. The exertions of a dancer are generally fatal to health in a few years, and this is said to be particularly the case with the female dancers; who after a strange variety of fortune and situation, very often, if they live to be old, take their station as beggars at a church door and die in an hospital.'

The following is a description of the manner and address of Napoleon when he met the corps legislatif, which our author witnessed from a gallery.

'The speech, though short, he read. He was agitated I observed, and he breathed with difficulty; and whether oppressed with the splendour which surrounded him, or out of patience at the tediousness of the ceremony, there was a mixed expression of anger and of sorrow very strongly marked upon his countenance. I do not think that, in the whole course of my life, I ever saw a countenance which held out less encouragement to any one who might be disposed to ask a favour from or throw himself upon the mercy of another. I now felt more forcibly than I had yet done in France, the blessing of being born in a free country; and as we looked down on the plumes which waved below, it had the appearance of some splendid exhibition at the opera; while the emperor, in his Spanish dress, received with shouts of applause and clapping of hands and saluted again in the same manner when he had finished speaking, instead of conveying to my mind any idea of regal dignity, made me think rather of some favourite actor in Richard III; nor would the expressions which the historian applies to this valiant usurper of the crown of England, be inapplicable on the present occasion.'

The book derives all its interest from the power of description, the proper feeling, and the strong vein of good sense which runs through it. Its style is far from being polished, and there is frequently an awkwardness of expression which surprises us, from one who has enjoyed the advantages of an English education. A strong objection to it arises from the inveteracy of the prejudice in favour of England and every thing English, which tinctures all his observations, and which is unpleasant, even to those who admire as much as we do her well balanced constitution, her noble institutions, and the splendour of her literary character. But the objection does not rest here; there are expressions which savour too much of aristocracy for a citizen of a great and happy republic, and even something like an avowed preference for a monarchical government. These sentiments can be traced so directly to education and early impressions, that we must

rather regret that his good sense should not have induced him to conceal them, than quarrel with him for entertaining them; for we believe so much in the white paper system of Locke, and in the omnipotency of these causes, that we can hardly find fault with a man for not erasing opinions and feelings which have been ingrained perhaps with the very texture of his soul.

ART. III.—*A Biographical Memoir of Hugh Williamson, M. D. LL. D. &c. by David Hosack, M. D. LL. D. &c.* New York. C. S. Van Winkle, 1820. pp. 91.

DR. WILLIAMSON'S name is too well known to our readers from his writings, to have required a particular notice of a work like that before us. We call the attention of our readers to Dr. Hosack's biographical memoir, wholly on account of the anecdote contained in it of the famous letters of Hutchinson and Oliver. We give the anecdote as it stands in Dr. Hosack's words.

'We now come to an event, memorable by the commotion it excited at the time, and by the magnitude of the consequences which have since arisen from it: I refer to the discovery of the celebrated letters of Hutchinson and Oliver: and here I beg leave to call your notice to a few of the earlier circumstances of the late revolutionary war, in order to communicate a fact hitherto unrevealed.

'Although the disturbances which originated in the famous stamp act, had nearly subsided with the repeal of that noxious measure, and returning sentiments of friendship were every day becoming more manifest, yet new obstacles to a permanent reconciliation appeared in the attempts of the British administration, to render certain officers of the provincial governments dependant on the crown alone. This measure of the court gave particular offence to the colony of Massachusetts, from the peculiarly obnoxious character of their governor, who, at times impelled by avarice and by the love of dominion, had, in furtherance of his schemes of self aggrandizement, uniformly manifested the most determined support to the views and measures of the mother country.

'However discreditable to his reputation it may be, certain it is, that governor Hutchinson was secretly labouring to subvert the chartered rights of the colony, whose interests he had sworn to protect. His agency in procuring the passage of the stamp

act was more than suspected, and apparently upon reasonable grounds.

'The illustrious Franklin, who had recently rendered himself conspicuous by his examination before a committee of the British privy council, and who at this period resided in London, as agent for the colonies of Pennsylvania and Massachusetts, obtained possession, through the agency of a *third* person, of certain letters written by governor Hutchinson; secretary Oliver, afterwards lieutenant governor; Charles Paxton, Esq. and other servants of the crown, [Thomas Moffat, Robert Auchmuty, Nathaniel Rogers, George Rome]; and sent them from Boston to Thomas Whately, Esq. member of Parliament, and a private secretary of Lord Grenville.'

After an account of Franklin's appearance before the privy council, and Mr. Wedderburne's insolent abuse of him, he adds,

'But it is time that I should declare to you, that this *third person* from whom Dr. Franklin received these famous letters, (and permit me to add that this is the first time the fact has been publickly disclosed,) was Dr. Hugh Williamson.

'I have before stated his mission in behalf of the academy. Dr. Williamson had now arrived in London. Feeling a lively interest in the momentous questions then agitated, and suspecting that a clandestine correspondence, hostile to the interest of the colonies, was carried on between Hutchinson and certain leading members of the British cabinet, he determined to ascertain the truth by a bold experiment.

'He had learned that governor Hutchinson's letters were deposited in an office different from that in which they ought regularly to have been placed; and having understood that there was little exactness in the transaction of the business of that office; (it is believed that it was the office of a particular department of the treasury;) he immediately repaired to it, and addressed himself to the chief clerk, not finding the principal within: assuming the demeanour of official importance, he peremptorily stated that he had come for the last letters that had been received from governor Hutchinson and Mr. Oliver, noticing the office in which they ought regularly to have been placed. Without a question being asked, the letters were delivered. The clerk, doubtless, supposed him to be an authorized person from some other public office. Dr. Williamson immediately carried them to Dr. Franklin, and the next day left London for Holland.

'I received this important fact from a gentleman of high respectability, now living; with whom, as the companion and friend of his early days, Dr. Williamson had entrusted the secret.'

We shall not trifle long with the good sense of our readers, by discussing the morality of this famous disclosure. We do not justify it upon the ground, that there is not a post office in a capital city in Europe, unprovided with false seals, for the more convenient opening and reading of the letters that pass through it; and that for an official agent to murmur that his correspondence has been violated, were as childish as for a general to complain that the enemy had attacked him, before his troops had had an opportunity to fortify themselves with a hearty dinner. Nor did it ever occur to us, that the safety of public documents in public offices was to depend on the good nature and delicacy of those whose most momentous interests were wrapped up in those documents; but who ought not, for the world, to be guilty of so rude and disobliging an act, as helping themselves to them, when they have a chance.

It is true, Mr. Wedderburne, who seems to have been very anxious to appropriate to himself as large a portion as could come to the share of a subaltern, of the glory and comfort of depriving his master of a continent, undertook to set up the distinction, that this was a private correspondence. A private correspondence indeed, between such simple, unofficial characters as governors, judges, members of parliament, and secretaries of ministers of state, upon such romantic and sentimental topics as the state of the colonies, the views of the leading men, and the right and means of reducing them! And yet a distinction so insulting to the common sense of the privy council as this, was made by Mr. Wedderburne the ground of the most abusive ribaldry toward Franklin, so indecent as to make the lords of the council laugh aloud. Lords of council laughing aloud at Franklin!

The true justification of the disclosure of these letters is that a state of war really, if not formally, existed between England and the colonies at the time. The letters themselves were actually hostile letters, traitorously written by his majesty's servants in America, in the design and with the effect of exasperating the government against the colonies.

But we suppose no great doubt is now entertained that letters like these are a lawful prize, wherever found. The only question now of interest is the agency of Dr. Williamson in procuring them. This agency is, as Dr. Hosack observes in his memoir, now for the first time made publickly known,

and the question naturally suggests itself, on what authority it is asserted. On this subject Dr. Hosack gives us no light but that which is contained in the following sentence. 'I received this important fact from a gentleman of high respectability now living, with whom, as the companion and friend of his early days, Dr. Williamson had entrusted the secret.' We have ourselves been favoured with an opportunity of reading the letter of the gentleman here alluded to, and another of Bishop White of Philadelphia testifying to the respectability of its author, both of which letters, with other documents relating to the same subject, will, we understand, be given to the public, among the transactions of the New York Historical Society.

This curious anecdote, therefore, as the case stands, rests upon the authority of a gentleman of Philadelphia, of ascertained respectability, the friend of Dr. Williamson from his youth, who professes to have received it from Dr. Williamson himself. We shall here state fairly our impressions as to the claim of the anecdote, under such circumstances, to be called authentic, and the probability that it is so.

In the first place, we do not agree with the opinion, which we have occasionally heard expressed, and by respectable persons, that there is an antecedent presumption against the thing, and that the rules and practice of the offices of state in London make it highly improbable that the letters could have been thus withdrawn without authority. We see no such improbability. There is none in their being in an office, for that would be to allow the justice of the ridiculous pretence that they were private letters; whereas they were letters of public agents, to a member of parliament, secretary of a minister of state. That so many letters from so many persons should have been together, as upon almost any supposition they must have been, at the time of their being taken, is also a circumstance, which renders it probable that they had been selected and deposited for some public purpose, in a public office. We are equally unable to see any antecedent improbability in their having been withdrawn from the office, in such a way as Dr. Williamson is described to have taken them. In a regular official way, they could not have been withdrawn without a treachery on the part of the principal or clerks, unlikely in itself, and very unlikely to have remained undiscovered. Mr. Wedderburne says, 'the letters could not have come to Dr. Franklin by *fair* means; the

writers did not give them to him, nor yet did the deceased correspondent, [Mr. Whately] who, from our intimacy, would have told me of it.' This seems to us to be correctly reasoned, if you change *fair* into *regular* or *official.* And when it is said that the rules and practice of the offices of state make it impossible that Dr. Williamson could have gotten possession of the letters in the way stated in the anecdote, we conceive that this amounts merely to the assertion, that they were not officially and regularly communicated to Dr. Franklin. This no one is disposed to deny. And no one can surely take upon himself to state, that the offices of state in London are so managed, that it is impossible a clerk should be imposed upon by an artifice like that to which Dr. Williamson is said to have resorted. On the contrary, that some such means were practised, we cannot doubt, and for the reasons assigned by Mr. Wedderburne. It is very certain that Mr. Whately could not have surrendered them: it is equally certain that no clerk or principal in lord Grenville's office would knowingly have entrusted them to Dr. Franklin, or any body likely to give them to him; and they must therefore have been obtained by some surprize. It may be just worthy of remark, however, that Gordon intimates that a suspicion attached to Mr. Temple. 'There is something mysterious,' says that writer, 'in this business, which it is apprehended will not bear a discovery at present. It is suspected that the letters were procured *out of some public office:* and that Mr. Temple is not so perfectly ignorant of all circumstances as the doctor's language seems to express.' This suspicion, it is well known, led to the duel between Mr. Whately, the brother of the correspondent of the American functionaries, and Mr. Temple.

Whether the precise mode in which Dr. Williamson is said to have gotten them, and just that sort of deception which he is said to have put upon the clerk, in one of the offices of state, be credible or not, it is not worth while to discuss. The gentleman from whom Dr. Hosack has derived the anecdote does not pretend to enter with precision into these details; and in every transaction of this kind so much depends on personal qualities, local circumstances, coincidences, and chances, that it is impossible to reason safely on any thing but a very accurate and minute detail. However, we see nothing improbable in the statement as it

stands, and as we have quoted it above from Dr. Hosack's memoir. So that the anecdote is in itself credible, and is reported by a person of credibility, likely, as a friend of Dr. Williamson, to have heard it, had it been true. This seems to be the amount of the presumption in favour of its authenticity.

We know of nothing that can be urged against the anecdote, but this, that the gentleman who communicates it to Dr. Hosack, and states that he himself had it from Dr. Williamson, does not, if we have an accurate recollection of his letter, intimate that he received it, with any injunction of secrecy, nor that Dr. Williamson made a mystery of it. It seems to us therefore somewhat unaccountable, that the anecdote should have remained so long concealed. We know of no motive, that could have led Dr. Williamson to conceal it from the public, that would not have led him also to conceal it from this friend as from every other, or if he communicated it to him, to have done it with a strong injunction of secrecy. This there is no appearance that he did. If our memory serves us, Dr. Hosack's informant in his letter, as yet unpublished, states that he repeatedly heard it from Dr. Williamsom, and drops no hint that the doctor at any time enjoined secrecy upon him; as he hardly could have failed to do, had it been a secret of the kind that it must needs have been; made known, as it would seem, but to one individual, and by him only promulged after Dr. Williamson's decease.

Moreover, it is finally communicated to Dr. Hosack, not as a great mystery, of which the death of the principal person concerned has at length broken the seal, but as a piece of information accidentally sent to the author of the biographical memoir, in consequence of inquiries made to Bishop White for materials for such a biography; and then it is communicated with as little ceremony or note of admiration, as any other historical anecdote. This seems to us inconsistent with the idea that Dr. Williamson could have communicated it to his friend in strict confidence; as it seems to us equally difficult to explain how, without such strict confidence, the secret should have gone no farther. This wants explanation. The most probable explanation which suggests itself to us is, that it was in fact communicated under strict injunction of secrecy by Dr. Williamson to his friend, a secrecy

not to be violated during the doctor's life time : and that his friend, under what circumstances, and for what reasons, or by what accident, we know not, has omitted to make any mention of such an injunction. While we therefore wish for farther information with regard to this curious anecdote, we confess ourselves, on the whole, strongly disposed to acknowledge its authenticity.

We therefore feel grateful to Dr. Hosack for his instrumentality in making it public. We could wish that equal pains might be taken to ascertain and make public the authors of another of the acts, which engaged so much of the public attention in our early revolutionary history, we mean the destruction of the tea. Dr. Hosack, in the memoir before us, gives the name of one of those concerned in this bold and patriotic exploit, general Ebenezer Stevens. Other names are not unknown, and we believe there are individuals in our neighbourhood, abundantly able to furnish a list of all concerned in this affair, with all the secret history belonging to it. Why should they be concealed ? Why should facts, from the disclosure of which nothing but honour would redound to all concerned in them, be allowed to be forgotten, one after another, as the living depositaries of these secrets pass away ? We are particularly anxious that transactions like that of the destruction of the tea, should receive every possible illustration ; for independent of the political importance of that affair, it is such things as these, which are to furnish materials, if any thing is to furnish them, for our future Waverleys and Hearts of Mid Lothian.

It may seem a want of courtesy to summon an occasional performance, like that before us, to the bar of verbal criticism. We therefore but just observe in passing, that there is room for greater simplicity of style, that the poetical quotations are too numerous, and the translation of the Latin one, we trust, superfluous. The allusions to the religious character of the subject of the memoir seem to us occasionly to border on canting. The anecdote, in particular, of Dr. Williamson's parents, page 12th, is singularly injudicious.

ART. IV. *Templi Carmina. Songs of the Temple, or Bridgewater Collection of Sacred Music.* Seventh edition, improved and enlarged. Boston, 1819.

AT a time when music is beginning to claim a respectable rank amongst the sciences taught in our country, it is gratifying to observe that the cultivation of psalmody is not altogether neglected. Until very lately, the musical compositions, introduced into our worshipping assemblies, were such, as are altogether beneath criticism; and the prevailing style of performance was quite deficient in solemnity, dignity, and decency. Among the cultivators of this musical trash, it is difficult to say which had been the most illiterate, the composers or the itinerant instructers. Equally deficient as they were in science, judgment, and taste, their misguided efforts had been but too successful in perpetuating a correspondent deficiency in others.

In the midst of this declension of taste, however, a few individuals, by the most unwearied and persevering exertions, succeeded in effecting a partial, though local reformation. A few congregations, in some of the most populous towns and villages of New England, were rescued from the prevailing degeneracy, the style of music which they adopted was comparatively excellent, the number of congregations where improvement was desired, was gradually increasing, illiterate instructers were giving place to those that were more scientific and skilful; and nothing, at length, seemed wanting to effect a general and entire reformation, but an extensive circulation of chaste and classical tunes, sufficiently simple to be adapted to the wants of choirs and of worshipping assemblies. Several laudable attempts, that have been made from time to time, to supply this deficiency, have been attended with partial success; and amongst these are justly to be reckoned the 'Templi Carmina.'

But the labour and the difficulties, to which the faithful compiler of church music necessarily subjects himself, are seldom duly appreciated. Though furnished with ample materials, it is by no means sufficient for him to sit down and form a mere index, or list of pieces for publication. Nor is a bare speculative knowledge of the rudiments of composition sufficient to insure his success. For, among the endless variety of psalm and hymn tunes that have obtained ex-

tensive circulation, few only have any claims to merit; and but a small portion of the compositions, even of distinguished masters, will be found sufficiently well adapted to the ordinary wants of the religious community. Some of these were designed for a congregation that would sing merely the air in octaves and unisons to each other, with an accompanying organ; others for a regular choir without accompaniment. Some, again, were designed for a single voice with an accompanying instrument; and others, for a congregation, choir, and instrument united. Some were adapted to the wants of such as are refined in taste and skilful in performance; while others were designed for the unlearned, and the unskilful. The oldest psalm tunes, too, such as Old Hundred, Landaff, Wells, &c. having been originally composed without harmony, it was left for subsequent masters, illiterate, as well as learned, to arrange them in two, three, four, or more accompanying parts, as best suited their whim or convenience; and consequently so varied, and so multiplied are the different copies of these pieces, that scarcely any two editions of them will be found to agree; and what is still more unfortunate, the worst harmonies are every where the most numerous. Besides this, most of the psalm and hymn tunes published under the names of Steffani, Handel, Bononcini, Arne, Haydn, Mozart, &c. were not originally designed as such by their composers, but have since been extracted by hands, not always the most skilful, from such of their larger pieces, as oratorios, concertos, symphonies, masques, operas, &c.; and hence, though well enough in their proper place, they are often too light and secular in their character; or too injudiciously arranged to answer the important purposes of sacred song.

He, then, who would form a judicious compilation from such materials as these, should be furnished with a cultivated and discriminating taste for psalmody, a thorough knowledge of practical music, and an intimate acquaintance with the leading principles of musical composition. A want of these qualifications, however, has been frequently manifested by Europeans as well as Americans; and, if the editors of the work before us have proved themselves in any degree deficient, a consideration of the difficulty of the task, and the want of sufficient patronage, should undoubtedly entitle them to no small share of public indulgence. Had these editors made

less pretensions, had their book been designed as a mere repository of the best of such pieces as are already in circulation, had they not presented us with unqualified recommendadations from two of the most respectable musical societies among us, we should have spared ourselves the labour of giving their book an attentive examination, and our readers the perusal of these remarks.

But though a mere collection of popular pieces may be considered, in some respects, an inoffensive, and even a convenient thing; it is still doubtful whether a book that makes such high pretensions to correctness, may not, by offending the taste of the amateur and the man of science, and by imperfectly accommodating itself to the wants of choirs and worshipping assemblies, do something towards retarding, instead of facilitating the cultivation of church music. At a time like the present, when the public attention is inclining towards this object, and when the principles of musical criticism are beginning to be better understood; certainly, the most obvious and prominent defects in composition will be more severely and extensively felt, than formerly; and more injurious in their operation on the public taste.

Such are the reasons that induce us to offer to the consideration of our readers the following remarks; and if the editors and publishers in question are sincerely desirous of rendering their work 'as perfect in all respects as possible;' we trust that they will not be unwilling to receive them as friendly hints of improvement for a future edition.

The pieces which compose this volume, may very conveniently be divided into six classes.

1. Old tunes, with harmony that is decidedly incorrect.
2. Old tunes, partially correct.
3. More modern pieces, with one or two parts added to the score.
4. Pieces, newly arranged or extracted from larger compositions.
5. Pieces, not before published in this country.
6. Pieces, that merit unqualified commendation.

The intelligent musician will readily recognize such tunes as St. Martin's, Plymouth, Dalston, New Fiftieth, Amsterdam, Easter Hymn, Old Ten Commandments, Little Marlborough, Bethesda, Cheshunt, &c. as belonging to the first class.

As the editors do not pretend that pieces of this description are harmonized on modern principles of correctness, it may be unnecessary, perhaps, to point out the false relations, false progressions, forbidden successions, &c. that perpetually occur: nor will we at present persist in saying, that they were under particular obligations to present these pieces to us in a different form; since, notwithstanding their numerous defects, they have become our familiar acquaintances: but we fear that their style of remark in relation to them is calculated rather to mislead, than correct or improve the public taste. Their language is as follows.

'Plain common chords were exclusively used in ancient church music, and applied, without regard to connexion, to six of the seven different notes of the scale; and it is doubtful if it has gained much by the modern doctrine of relation. Palastrini, in his famous 'Stabat Mater,' as well as other celebrated authors, used perfect chords of the same kind diatonically, and every note in the scale except the 7th, as a fundamental base. And Dr. Burney, from whom most of this account is derived, says, "the modulation was so qualified by the disposition of the parts, that though it looked unscientific and licentious on paper, its effects, of which no idea can be acquired by keyed instruments, were admirable." He farther says, that "this disregard of relation is doubtless the true secret of ancient church music; and the principal cause of its effects so widely different from that of modern compositions: an effect compounded of solemnity, wildness, and melancholy."'

It should be distinctly understood, however, that the compositions to which the doctor here alludes, are of a species entirely different from any thing that appears in the 'Templi Carmina.' They were produced indeed by men of distinguished eminence in science and taste, for the times in which they lived; but, though excellent compositions of the kind, they have long since fallen into disuse, and have ceased to be models for imitation. These old masters too had their own peculiar rules, to which they rigidly adhered; and though a want of relation forms a distinguishing trait in their compositions, this want could have been atoned for only by the existence of peculiar excellencies to which it gave rise: and it is wholly owing to these excellencies that we are still able to listen to their music with so much satisfaction.* But the com-

* So far is Dr. B. from countenancing a want of relation in modern music, that he compares it to a want of grammatical connexion in language.

positions that we have now under consideration, are not correctly harmonized on any principles, ancient or modern. At the time this harmony was written, it was justly to be considered illiterate and tasteless; and of course can now scarcely be tolerated, except for the sake of convenience.

The second class of compositions consists of such pieces as Funeral Thought, Durham, St. Ann's, Wells, Green's 100th, Aylesbury, Cumberland, Rutland, Colchester, York, Winchester, Dover, Quercy, Condolence, Handel's Anthem, Bangor, Mear, Bath, &c.

Since most of these are now so much changed in their appearance, as to prevent us from feeling the partiality incident to acquaintance, we do not see why so many considerable defects are still permitted to remain. Why should not these pieces have been presented to us, either with their accustomed defects, or entirely without them. If they are to be given to us in a new form, we certainly wish to see them correct on some uniform principles, either ancient or modern.

There is also a considerable difference between a sacred and a secular style of harmony. Many things that are proper in the latter are wholly inadmissible in the former: nor do we wish to see, in sacred music, even those modern refinements, that are indispensable in dramatic composition. But we fear, that, on a close examination of this class of pieces, their refinements will sometimes be found mixed with passages in the ancient as well as modern church style; and then, too, with some of the most palpable violations of all rule. But as this heterogeneous mixture of style, from the multiplicity of opposite principles it embraces, almost bids defiance to criticism, we shall confine our particular remarks to a few individual pieces.

1. Funeral Thought, p. 11. As this piece is otherwise in the modern church style, we see no reason why the first half-cadence in the third line of the alto should have so widely deviated from it.

2. Durham, p. 12. This tune begins with an unmeaning succession of unisons, in the tenor and base; the ♯3d is omitted in the first half-cadence; the second line is in the modern church style; the third line contains a mixture of style; and the fourth a dominant, that carries, at the same time, a major and a minor third, forming the crude dissonance of the chromatic semi-tone.

3. St. Ann's, p. 14. The first line contains, in the alto, a modulation to A major, which can scarcely find a parallel even among modern dramatic licenses.

4. Green's 100th, p. 102. The second measure of the second line contains a diatonic succession of octaves between the alto and air; and in the next measure there is a similar succession of 5ths between the tenor and alto. Nothing can compensate for the want of relation that is felt in this tune.

5. Aylesbury, p. 144. At the third line, the alto proceeds in G major, while the other parts form an ancient half-cadence in A minor. The chord $\frac{6}{5}$ occurs too frequently, and with too little ceremony.

6. Dover, p. 132. The first note in the second measure of the alto should have been F; and the last note of the second line E. The third line contains two instances of consecutive 5ths; and, at the close, the alto crosses the air without the least necessity or advantage.

7. Rutland, p. 133. At the end of the first and second lines and at the close, the alto crosses the air; and at the end of the fourth line, it continues in D major, while the other parts modulate to A major. The last note but one in the first tenor staff should have been A.

8. Quercy, p. 101. This piece contains consecutive octaves and 5ths, by the opposite motion (a license which should be seldom used in modern music) and in the second line between the tenor and air, a long and disagreeable succession of 4ths.

9. Condolence, p. 176. Besides several smaller faults, this tune contains five instances of consecutive 5ths between the alto and tenor.

10. Handel's Anthem, p. 245. A natural should have been prefixed to the first note in the tenth measure of the second treble. The last cadence in the first strain is preceded by an unparalleled succession of 7ths between the air and base. This, without doubt, was originally a typographical error; and it ought to have been corrected. If in the first of these two chords the treble had taken the 8ve instead of the 7th, the passage would then have been in the true style of Handel. A similar remark might be made respecting the third base note and fifth treble note of the following strain. The former should, unquestionably, have been B, and the latter F.

With regard to such errors as the foregoing, there can be but one opinion; and were we disposed to swell the list, we

could mention innumerable instances of a disregard of relation; the omission of essential intervals; the improper descent of the leading note to the dominant; and an undue partiality for the 6th instead of the 5th in the subdominant harmony: but as our limits will permit us to notice only some of the most prominent defects, the foregoing must suffice.

The tunes which compose this class are pretty numerous; and we cannot but hope, that in a future edition they will be entirely renovated, or reduced at once to their former standing. We will not pretend to say how the editors obtained these copies; but we wish them to present us with better ones.

Among the pieces that compose the third class, we shall confine ourselves to such as Locke, Dunstan, Blendon, Nantwich, Kingston, Halifax, Pelham, Rushton, Hotham, Redeeming-Love, Turin, Deptford, Helmsley, Welsh, Italian Hymn, Bramham, Dorset, Sussex, &c. which are to be found in the Lock Hospital Collection, not long since republished in Boston from a late London edition. In that work they are arranged in three parts with a figured base for the organ, in a style highly distinguished for simplicity, chasteness, and delicacy; and with few exceptions the most scrupulous regard has been paid to the modern rules of composition. Forbidden successions, false progressions, false relations, defective modulation, and every thing like mixture or impurity of style, have been studiously avoided: and even the most excusable and inoffensive licenses have been used with a sparing hand. Many of these pieces, too, have been often reprinted and extensively circulated in several districts of our country, until they have at length become the most intimate of our musical acquaintances: And why may we not say, as our editors have done respecting a part of the old tunes, that 'having become familiar to us, more injury than benefit would probably result from any supposed alterations of them whatever?' But the Templi Carmina presents these pieces to us in a style altogether peculiar to itself, and, in our opinion, the particular unhappiness is, that the alterations they have now undergone are evidently and decidedly for the worse; and if we might be allowed to judge from the forbidden successions, disregard of relation, omission of appogiatures, after-notes, pauses, &c. that frequently occur; as well as from the fact that the score, previously rendered complete

from the finishing touches given by eminent European masters, has been uniformly cumbered with additional harmony: we should not hesitate to say that these alterations are literally to be taxed on the editors themselves. And we confess that it is difficult for us to see why the same reasons that prevented them from hazarding the necessary corrections of the old tunes, should not more especially have deterred them from applying the pencil of a novice to such pieces as, from their high state of finishing, had no need of correction.

If it be said that the score in church music should always consist of as many as four parts, our reply is, that there is a difference of opinion on this subject. It is a more general, and probably a more correct opinion, that the number of parts should vary according to circumstances. The more refined a melody is, the more we incline to limit our attention to it; and of course the accompanying parts should be proportionably fewer and more simple. This is one of those fundamental principles of harmony, that should never be forgotten. We are aware that some of these pieces have been arranged in four parts by respectable European masters, but instead of superadding to harmony that was previously complete, they have furnished a score entirely new; and they have uniformly found it necessary to preserve, in the individual parts composing it, a much greater simplicity of melody than would otherwise have been required. Nor have they been less studious in cultivating purity and chasteness of style, than were the compilers of the Lock Hospital Collection; and if our editors had availed themselves of their labours, and laid their own pencil entirely aside, there would have been much less reason to complain. But if a Madan, a Lockhart, an Arnold, a Giardini, and even a Burney himself, have been willing to risque their own compositions in three vocal parts, and especially if they have uniformly set such a base to their music, as on modern principles would be inadmissible in a fuller score, an American editor, we think, might well have republished these pieces without furnishing any additional harmony of his own invention.

But to proceed with the fourth class of pieces. Parma, Brattle Street, Italy, Interment, and Dirge, had their origin in secular music.

Parma was an Italian song, a treble duet with base accompaniment. If the alto in the 'Templi Carmina' were omit-

ted, and the tenor given to the second treble, the arrangement would be similar to the original, and as we have formerly seen it.

Brattle Street originated in an instrumental composition of Pleyel's. We have more usually seen it with several of the original appogiatures that are here omitted. The last line but one is furnished, as it formerly has been, with a cadence that is truly barbarous. It should have been made similar to the first line.

Italy had a similar origin with Parma. As a hymn tune it has pretty uniformly appeared in three parts; and if Sacchini had thought an alto necessary, he could, doubtless, have furnished a better one.

Interment and Dirge are indebted for their existence to Handel's celebrated 'Dead March in Saul.' The latter is too dissonant for common use, and the former is now deprived of one of its most interesting strains.

Plympton, Sinai, and Aberdeen, in the original, were fine compositions. Plympton having first appeared as a short fugue in four parts, was afterwards reduced to three parts with plain harmony: and in this form it has been extensively and deservedly admired: and there seems little necessity for its now appearing in a third form. The two latter pieces have usually been reprinted without material alteration; but they are now quite transformed, and despoiled of their peculiar excellencies.

Music was originally a beautiful movement in the overture of Dr. Arne's Artaxerxes. If the alto be omitted, (and it may very well be spared,) the arrangement will then be as we have often seen it, and similar to the original. If the editors, however, prefer four parts in score, they will find a much better copy than the one they have given us, in the 'Hartford Collection,' or in 'Arnold and Callcott's Psalms,' from which it was taken.

Messiah is an extract from Handel's well known solo, 'I know that my Redeemer liveth.' It has appeared in several different forms; but till now we had thought it quite too delicate to furnish an ordinary score of four parts.

A similar remark might be made respecting Stennet, which was originally extracted from Pergolesi's 'Stabat Mater.'

Veni Creator and Palmyra made their first appearance as extracts, in Arnold and Callcott's Collection. The present

arrangement would be more excusable if the last measure of the former had been deprived of its consecutive 5ths, and the second measure of the latter of its crude dissonance.

The remainder of this class appears less exceptionable, though Lorn, page 115, furnishes us with two instances of a chromatic license, that we are not yet able to relish in psalmody.

The fifth class presents us with a considerable variety of style. It sometimes happens that a worthless composition, when once before the public, will acquire such a popularity as to render it difficult for a compiler to reject it; and policy, perhaps, may dictate that it should be suffered somewhat to outlive its popularity. But with regard to new music the case is quite different. No person is excusable, on any principles, for introducing as new acquaintances, such pieces as are not really deserving of patronage. Our country is already deluged with musical trash; and it is the duty of every editor and compiler to contribute his exertions towards diminishing the quantity.

But while the work before us furnishes considerable new matter that is valuable: we are compelled to say that there is a larger quantity that is more or less indifferent; and not a little that is positively insignificant. Our readers will probably agree with us in thinking that such tunes as Pembroke, Clifton, Tisbury, Antworth, China, Lucerne, Hopkins, Carmarthen, Allerton, Lothian, Prescot, Despondence, Courtney, &c. are unworthy of republication.

Most of the compositions also of W. Arnold, J. Arnold, and of Husband, Walker, Leach, Peck, Chapple, Dalmer, and Dixon appear rather insipid to us. Some glimmerings of genius are here and there discoverable in their compositions, but not in general sufficient to rescue them from undisturbed oblivion. Nor can we yet relish all the pieces that appear under the names of A. Williams, T. Williams, Smith, Taylor, Milgrove, and Costellow, however much we admire some of them. A favourite author will sometimes be found to write insignificantly, and it is only the best of his pieces that should be inserted in a collection for general use.

But we hasten to speak of a sixth class where we are able to bestow commendation. Collingham, Babylon, Yarmouth, St. Phillip's, Munich, Dundee, Newton, Dort, Hartford, Stade, Armley, Westbury, Kirkland, Fairfield, St.

Bridge's, Bath Abbey, Charmouth, Walsal, Feversham, and a few others may be considered as possessing superior excellence.

Gregor's 'Hosanna' is composed in very fine style. The duet was originally designed for children to sing in response, and the chorus for the choir and congregation to unite with them; and hence, what might otherwise appear objectionable repetitions, will not fail to excite a good degree of interest, especially when an organist furnishes us with the original accompaniment. Kent's Anthem 'Blessed be thou,' is truly excellent. 'The Heavens are telling' is of classic celebrity; though too difficult for most singers, it will be found an excellent exercise for such as wish to perfect themselves in reading chromatic music; and the amateur will find near the close of the piece a beautiful specimen of the enharmonic. Denmark, Herald-Angels, and Dying Christian, still continue in favour with the public; and they appear in their usual dress.

This class of compositions may be cheerfully recommended to public patronage, and though at present they form an inconsiderable portion of a volume, which otherwise would not abound in well founded pretensions to science or taste, we sincerely hope that in a future edition they will be found more numerous.

The rudiments of music, contained in the work before us, are incomplete in some respects, and redundant perhaps in others. There is something in relation to time and to intervals that might very conveniently be exchanged for a more complete system of solmization. But the style in which the rudiments are written is surprisingly illiterate. The following will be deemed a sufficient specimen.

'Music is written on five parallel lines and their four intermediate spaces; and are called a staff, making nine degrees, or places for the heads of the notes, and are counted upwards.

'It has already been stated that the key, pitch, or tonic, may be elevated or depressed by flats and sharps to any of the twelve semitones of the scale. This may be done by flats or sharps placed at the beginning of the tune, on such lines or spaces as are necessary to bring the tones and semitones into their relative and proper order, required by the alteration intended.'

And again,

'And having thus found mi, the notes above are fa, sol, la, fa, sol, la, and then comes mi again—and below are la, sol, fa, la, sol, fa, and then comes mi again, as the foregoing examples will show.'

ART. V. *Lettres écrites d'Italie en* 1812 *et* 13, *à M. Charles Pictet, l'un des Rédacteurs de la Bibliothéque Britannique, par Fréderic Sullin de Chateauvieux. A Paris et à Genève.* 1816, 2 vols. 12mo. pp. 576.

PERHAPS there are none of our natural advantages which it still remains for us fully to appreciate and avail ourselves of, so much as those which respect the agriculture of our country.

Without running into all the errors of the œconomists or adopting their entire theory, we trust that we may assert the paramount importance of this pursuit, particularly to the United States. To every country it affords at least a partial, and often a complete subsistence for its population; it gives a constant and healthful employment to sometimes more than half, and never less than a fifth of the community; its profits though not so large, are more certain than those in other employments of capital; and while it replaces the annual advance invested, a surplus profit has accrued, and an accession of national wealth been secured, which can be employed as private interest and the public good may require.* But in the United States the cultivation of the soil has these and many more advantages; nay, it is intimately connected with our national character, because it powerfully acts upon the morals and constitution of our citizens. If it be true, that the torch of liberty has always burned with a purer and brighter lustre on the mountains than on the plains, it is still more true, that the sentiments of honour and integrity more generally animate the rough but manly form of the farmer, than the debilitated body of the artisan. There is in that primitive and honourable occupation, the culture of the earth, something which, while it pours into the lap of the state an increase beyond every other employment, gives more than the fabled stone, not only a subsistence but a placid feeling of content-

* 'Farmers and country labourers, on the contrary, may enjoy completely the whole funds destined for their own subsistence, and yet augment at the same time the revenue and wealth of their society. Over and above what is destined for their own subsistence, their industry annually affords a neat produce, of which the augmentation necessarily augments the revenue and wealth of their society.' Smith's Wealth of Nations, vol. iii. p. 178.

'Farmers and country labourers, indeed, over and above the stock which maintains and employs them, reproduce annually a neat produce, a free rent to the landlord.' Ibid. p. 186.

ment; not only creates the appetite to enjoy, but guarantees its continuance by a robust constitution, fortified with the safeguards of temperance and virtue.

The anxiety of our countrymen to possess in fee a spot of ground however small, and the consequent paucity of leases, is a fact no less curious than it is solitary. This is not the case, or at least in any considerable degree, in any other country. Such indeed in Britain were formerly those small proprietors called Franklins, who possessed a keen spirit of independence and a determined opposition to oppression; feelings, which, with the alienation of their farms, have gradually departed from the breasts of their descendants.

Notwithstanding, however, the ease with which the pride of independent possession may be gratified, it is not the less true, that agriculture, instead of being a favoured, has been a degraded and unpopular pursuit; that instead of cherishing every motive which might lead to its honourable extension, we have endeavoured gradually to weaken its legitimate efforts. It is indeed a singular inquiry, why the cultivation of the soil among us should have been so little encouraged, when every state in Europe, since the peace of Aix-la-Chapelle, has turned its most assiduous attention to this most important department of domestic œconomy, and ultimately borrowed from it the resources which have carried them through the prodigious conflicts of the last generation.

There have been many causes, certainly not all of equal efficacy, which have co-operated against the interests of agriculture. But there is a prominent one to which we can but just allude. During a very considerable period, since the peace of '83, the peculiar situation of Europe has afforded opportunities for commercial enterprize too tempting to be resisted. American merchants received, in the lapse of a very few years, the most astonishing accessions of wealth; and fortunes, ordinarily the fruit of a laborious life, and never the portion of many, were amassed with unparalleled rapidity, and by large numbers. Our domestic prosperity more than equalled the extension of our trade. It was then that the compting-houses of our merchants were filled with youth from the country, who forsook the slower but surer emoluments of agriculture, for the mushroom but unsubstantial fortunes of commerce; nay, who preferred the meanest drudgery behind the counter of a retail-dealer, to the manly

and invigorating toil of the cultivator of his paternal acres. Unfortunately this spirit of migration was encouraged by too great a success in trade. Feelings of vulgar pride contracted in town caused the manual labour of the farmer to be regarded as degrading ; this unworthy sentiment spread with baleful influence, and when the compting-houses became overstocked and afforded no longer a resource, it was no uncommon thing to see a young man with no qualifications but a little bad Latin picked up at a miserable village school, forsake a large and fertile farm and apprentice himself to a poor country attorney.

Another cause of the depressed state of agriculture, mentioned in a late publication,* is the constant emigration to the west. There must necessarily be a tendency to a most impoverishing system of cultivation, where people feel that after having extracted all the richness of the soil, they may throw it up and remove to a country, which offers them an untouched surface, and needs no artificial aid of composts or manure. The land, besides suffering from negligence consequent on the prospect of departure, will be worn out by successive crops, and long be rendered unfit for the more valuable dispositions of the agriculturalist. Indeed we have been informed, that in many instances, when the land is almost ruined by the continued culture of tobacco, it is sold by the planter to some enterprizing and laborious individual, who may restore it by his patience and attention, while he himself removes to another spot, where the same wretched system of exhaustion may again be renewed. There are other causes we might mention, such as the unwieldy size of our farms, and particularly the want of a regular, enlightened farming system. But we cannot now stop to enter on these topics, but may notice them hereafter.

If then agriculture be so important an item in a nation's resources, affording subsistence to its population, and a surplus capital to be employed in the various objects of national industry and enterprize, it would seem to follow, that nothing but very imperious circumstances should induce any government to repress its vigor or palsy the exertions of those devoted to it. Immediately connected with such an attempt was the late bill before Congress, establishing a new tariff of duties. But why go back to a bill which was rejected ? We

* Letters on the Eastern States.

answer, that it is not to be forgotten that private interest is one of the most powerful incentives to action, that the manufacturing interest is large and increasing, that one defeat will not discourage its partisans, and lastly, extraordinary as the fact may seem, that the bill in question, fraught with such varied evil, was thrown out by a majority of only *one* vote in the senate. The tendency of this project, was not only to introduce an unequal system of taxation, but first, by the destruction of a large part of our foreign commerce, to diminish very materially the market for our home products, and secondly, to divert a large portion of agricultural industry into the service of the loom and spinning jenny.

But it will be asked, are manufactures then to be entirely neglected? Most certainly not. Still there is a certain limit, in a newly settled country with a thin population, beyond which their establishment is not only useless to government but a burden to the people. It is undoubtedly true that the manufacture of articles of immediate necessity or very general circulation ought to be encouraged by a wise and provident people; but it ordinarily happens that these need no extraordinary patronage; their extended use soon gives a facility to the artist, which enables him to enter into competition with the foreigner, provided the raw material is to be found at home in any tolerable abundance. Thus we find that hats were manufactured in the colonies at a very early period; together with household furniture, saddlery, &c. they have long since ceased to be an article of importation. It is necessary for the well-being and security of a nation, that certain articles should be manufactured within its limits, such as gunpowder, coarse clothing, and some others of a similar description.* But the moment a people attempt to force by means of high duties on foreign imports the production of a commodity, which, by reason of the extravagance of the wages of labour and other causes, must necessarily be sold at a much greater price than the imported one, their conduct would seem no less an affront to common sense, than a solecism in political œconomy.

The United States possess a very restricted capital, and as the tilling of the soil requires comparatively much fewer advances than any other department of industry, that capital became immediately invested in agriculture. Land, cheap and fertile,

* See our last number, p. 323, &c.

constituted a fund which gave a certain profit. And as the productions of the labour of more than five-eights of our population went to purchase foreign articles either of luxury or necessity, a great and profitable intercourse was constantly maintained with Europe. Under an equitable system of foreign duties, arising from this commerce, the expenses of government were defrayed, our debt gradually extinguished, and by a powerful but necessary reaction our agriculture improved and extended. But the tariff bill restricted a large and valuable commerce principally with Britain. It is not to be supposed that, while we refused the broadcloths and hardware of England, she would still continue to buy the same proportion of our cotton and tobacco. Our market then for these articles would be so far lost; and if we now feel the effects of a diminished demand for our produce in consequence of the establishment of peace in Europe, how can it be thought a wise policy to suffer other embarrassments and losses, by excluding ourselves entirely from every foreign port where we might calculate upon its sale? Where then is our produce to find a vent? For assuredly the most enthusiastic friend of domestic manufactures could never imagine, that the most extensive establishment of them could ever give an adequate consumption for the present amount of our agricultural productions.

The bill then imposing heavy duties on foreign articles, besides diminishing the number of the cultivators of the soil, would in some degree operate as a tax on its fruits, because, while the price of manufactures was enormously increased, the value of produce would be more than proportionally diminished. For the cultivator, not only deprived of the benefit of a competition between the domestic and foreign consumer in the sale of his articles, is obliged to purchase those of his neighbour, at any price which his cupidity and the tariff may determine. The expenses of the state being still the same and its usual resources dried up, a general but unequal system of taxation would be adopted, when in fact, the farmer bending under the weight of this partial policy, is less able to pay whatever contribution may be levied. These assertions are by no means novel, they are mere corollaries from the plainest and most undoubted principles of political œconomy. Dr. Adam Smith, the great father of the science, and all whose views on this subject, though not act-

ed upon in a country whose domestic policy was too firmly established to be changed without a most serious revolution, ought to have great weight with us in the adoption of any permanent system, speaks in this decided manner in his Wealth of Nations, vol. iii. p. 201. 'It is thus that every system which endeavours, either by extraordinary encouragements, to draw towards a particular species of industry a greater share of the capital of the society, than what would naturally go to it; or, by extraordinary restraints, to force from particular species of industry some share of the capital which would otherwise be employed in it; is in reality subversive of the great purpose which it means to promote. It retards instead of accelerating the progress of the society towards real wealth and greatness; and diminishes instead of increasing the real value of the annual produce of its land and labour. All systems, either of preference or restraint therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man or order of men.' M. Say, a man no less remarkable for his practical knowledge of manufacturing industry, than his profound acquaintance with every branch of œconomical science, has given his marked disapprobation of that system which we are discussing. 'Lorsqu'au travers de cette marche naturelle des choses,' says he, 'l'autorité se montre et dit : le produit, qu'on veut créer, celui qui donne les meilleurs profits, et par conséquent celui qui est le plus recherché, n'est pas celui qui convient, il faut qu'on s'occupe de tel autre; elle dirige évidemment une partie de la production vers un genre, dont le besoin se fait sentir davantage.'—Traité d'Economie Politique, tom. i. p. 168. We can only refer to pages 172 and 201 for the expansion of these ideas. It is thus we find that the arguments adduced in favour of this system neither accord with the convictions of fact nor the suggestions of reason. Whenever the increasing capital devoted to the land can no longer be profitably employed, then manufactures will flourish and the surplus profits of agriculture be legitimately devoted to their support.

During the late war, the prospect of large gains caused by the extravagant price of all European commodities, caused many persons in our country to embark their fortunes in cotton and woollen factories. These factories were brought into being by a temporary and unnatural state of things. On the return of the peace of 1814, many of these manufacturing establishments came of necessity to an end. Some establishlishments remain and ought to succeed, because they prove that the profits of their capital may enter into competition with that employed in agriculture. In this case the transfer is not only natural but conducive to national wealth.

But we are asked to patronize manufactures at the expense of agriculture, on the ground of our being rendered really more independent by them. This is, however, but an attempt to conceal private interest under the garb of patriotism,* and ought at least to awaken suspicion. We are not to be called *dependent* merely because a state of war might give rise to many inconveniences. We can do without silks or broadcloths, while we possess the real means of sustenance and defence. But these factories once established, say the advocates of this interest, the citizens ought to support them in their present languishing condition, and therefore ought not to buy, even at a much less price, foreign articles in preference to our own. The force and propriety of such reasoning would appear to be similar to that of a gardener, who having in winter devoted himself to the cultivation of flowers &c. by means of artificial heat, should in the spring apply for an act of the municipal authority, forbidding all persons to pluck a daisy or violet in the field, and requiring them to resort to his hot-house. So far from there being a necessity for any interference on the part of government, we believe we may assert that our manufactures never were so flourishing as since the peace. It is true that many estab-

* ' Qui est-ce qui sollicite des prohibitions ou de forts droits d'entrée dans un état ? ce sont les producteurs de la denrée dont il s'agit de prohiber la concurrance, et non pas les consommateurs. Ils disent · c'est pour l'intérêt de l'état ; mais il est clair que c'est pour le leur uniquement.—N'est-ce pas la même chose, continuent-ils, et ce que nous gagnons n'est-il pas autant de gagné pour notre pays ? point de tout :—ce que vous gagnez de cette manière est tiré de la poche de votre voisin, d'un habitant du même pays ; et si l'on pouvait compter l'excédant de dépense fait par les consommateurs, en conséquence de votre monopole, on trouverait qu'il surpasse le gain que le monopole vous a valu.' Traité d'Economie Politique par Jean-Baptiste Say, tom. i. p. 203.

lishments have been broken up and much capital sunk, but it is a fact that those factories which are in the hands of individuals, have generally been successful, while those conducted by incorporated companies wanting the circumspection and prudence of private interest, have as often become bankrupt. In the western states this branch of business has greatly improved, and recent information enables us to affirm, that the profits which are now realised are nearly as large as those during the war. In the east, we might cite an instance, which must put down all cavil on this subject. The cotton factory at Waltham near Boston,* begun when manufactures were by no means in so promising a situation as at present, is a triumphant answer to every one who demands additional encouragement for the loom, and a new tax on his brethren to extend its operations.

But we hasten to return from our wanderings, and to introduce our readers to the work, of which we have prefixed the title to this article. It is in the form of letters addressed to Professor Pictet of Geneva, from various places in Italy, and contains the author's remarks upon that country. He dwells not on the palaces of Venice, neither worships at the altar of Roman genius in the Pantheon, but taking his silent way through the fields, he describes that which gave birth to both: he informs us of the processes of Italian farming, of the effects of irrigation, and of the general state of Italian agriculture. And, in our opinion, he has shewn as much taste in the execution of his design, as those travellers who have employed themselves upon inquiries commonly thought as interesting, but certainly not as useful. M. de Chateauvieux appears to be an enthusiastic admirer of the subject on which he writes, as well as to have a practical knowledge of all its details. His book is very little known among us, though it has lately been translated in England, and formerly occupied the attention of a celebrated critical journal of that country. It is our intention in this article to put our readers in mind of its existence.

The author divides Italy into three regions, distinguished by their different systems of cultivation. The first extends from mount Cenis and the Alps of Suza to the shores of the Adriatic. The fertility of Lombardy is proved by the constant succession of its crops, and to this province he has given

* See Letters on the Eastern States—Letter on Manufactures.

the name of 'Pays de Culture par assolement,' or the district of culture by rotation of crops. The second of the regions reposes on the southern declivity of the Appennines, from the frontiers of Provence to the boundaries of Calabria. This is called the District of Olive trees, or, by an association somewhat forced, of Canaanitish culture. The third region is that of *Malaria* or patriarchal cultivation, from a supposed resemblance, which we are still less able to enter into, between the shepherds of the older and the present time. It is found from Pisa to Terracina, and comprehends the plain between the sea and the first ridge of the Appennines.

Lombardy has been often called the Garden of Europe, and seems abundantly entitled to the appellation. The soil is not only rich and alluvial, but deep and perfectly level. The climate is humid, and the system of irrigation supplies water to almost every field. These circumstances, united to the heat of a southern sun, cause a most rapid and luxurious vegetation. Nothing can be more important in the œconomy of a farm than the situation of the farm-house and its out-buildings. In this respect our American farmers are lamentably deficient, and though we would not recommend as a model the one described by de Chateauvieux as common in Lombardy, still we think it would afford some valuable hints. The buildings raised on the four sides of a square, present on one side a central elevation of two stories. The lower part for the farmer, the upper story for his grain. Adjoining this, at each end, is a stable plastered so as not to let the dust descend, for the cows and oxen; the other three sides of the square are enclosed by a sort of portico, open within and supported by columns, which serves as a depository for straw, hay, &c. This structure is about twenty-four feet broad and fifteen high. Half the court is paved, the remainder is used for threshing out the corn, which, in the primitive way, is still done by horses. The place for manure is outside of the court. This plan presents the most space with the least building, and assures the preservation of every product.

The farms in Lombardy are small, and do not often contain sixty arpents;* notwithstanding M. de Chateauvieux asserts against Arthur Young, that they bring more to market than the large farms, and that there is no country in the

* An arpent is to an acre nearly as five to four.

world which can dispose of so large a portion of its productions as Piedmont. If the fact be so, it may possibly arise from the peculiar character of the persons who cultivate the land. Our author, however, remarks, that this system of small farms can never take place till the advances of capital have carried agriculture to its highest point. Lombardy is cultivated by a species of farmers, called *metayers*. They pay a small fixed rent, valued at one half the produce of the meadow, or forty francs the arpent. The clover belongs to them entirely; the crops of wheat, Indian corn, and flax, and the wine and silk are equally divided between them and their landlord. The latter advances nothing but the taxes, and of course must find such an arrangement singularly advantageous. Father and son continue the same engagement without the formality of a lease or any registry of the contract. M. Say regards this system as unfavourable to agriculture, and in his treatise on Political Economy, book ii. chap. 9, vol. 2, says, 'il y a des cultivateurs qui n'ont rien, et auxquels le propriétaire fournit le capital avec la terre: on les appelle des Métayers. Ils rendent communément au propriétaire la moitié du produit brut. Ce genre de culture appartient à un état peu avancé de l'agriculture, et il est le plus défavorable de tout aux améliorations des terres; car celui des deux, du proprietaire ou du fermier, qui ferait l'amélioration à ses frais, admettrait l'autre à jouir gratuitement de la moitié de l'interêt de ses avances.' Though the cultivation of land by metayers may be unfavourable to its amelioration, still it may be easily imagined, that the smaller products of every little farm will be greater, as each must possess both a garden and a poultry yard. Every field in Lombardy is encircled with a band of poplars, mulberries, oaks, &c. and they are often so thick that the eye can scarcely penetrate the rich growth of leaves. From the boughs, luxuriant vines hang in festoons, and present to the passing traveller a scene of rural beauty and enjoyment which he may search for in vain in other countries. The shade of the trees does not injure the crops, such is the invigorating effect of a humid soil and an Italian sky.

Of the constant succession of crops we here know very little; indeed it is the result of experience alone. So much depends on climate, that we imagine the rotation practised elsewhere can never afford certain information to us. The

largest quantity of the most valuable produce, which may be taken from a spot of ground in any number of years, is a problem whose solution is of the greatest importance. In Piedmont the rotation is generally as follows :

1st year, { Indian corn, manured, / Beans—hemp.
2d " Wheat.
3d " Clover, turned up after the first cutting and followed by a fallow.
4th " Wheat.

This rotation, says M. de Chateauvieux, is one of the most abundant, and may be pursued indefinitely, notwithstanding the recurrence of wheat, though perhaps the result may be attributed to the abundance of manure furnished by a meadow cut three times. After stating that a farm of sixty arpents supported a family of eight or nine persons, who kept twenty-two head of large cattle, of which two oxen and a cow are fattened every year, as well as one or two hogs, that it gave about one hundred and twenty-five dollars worth of silk, and furnished more wine than could be consumed, that the preparatory crop of Indian corn and beans almost subsisted the metayers, and that nearly all the grain might be sold, as well as a great quantity of smaller products, he celebrates the industry and management of the Piedmontese proprietors in the following terms : ' It will be easy for you, after this, to conceive how Piedmont is perhaps, of all countries, that where the economy and management of land is best understood, and the phenomenon of its great population and immense exportation of produce will thus be explained.'

In the neighbourhood of Piacenza, cattle rather than grain constitute the wealth of the farmer. The cows and oxen are distinguished by immense horns and beautiful figures, and we believe that our American race is in no way to be compared with them. Their origin is said to be Hungarian ; the males are noble animals, but the cows give little milk. To remedy this inconvenience, two thousand cows are imported from Switzerland, and the valuable qualities of the animal are thus perpetuated. The cattle are almost universally of a slate-grey colour. The rotation of crops is here as follows :

1st year, Indian corn and hemp, manured,
2d " Wheat,
3d " Winter beans,

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4th year, Wheat, manured,
5th " Clover, ploughed after the first cutting,
6th " Wheat.

This succession, however, can only be pursued in a rich soil, which is manured every three years. There is one article we beg leave to notice particularly. We imagine that the winter bean might easily be introduced among us and with great advantage, as it is capable of supporting the cold of the severest winter. It is sown in the beginning of September, and it must have considerable growth before autumn to resist the attacks of the cold. The stalk then perishes by the frost, but at the moment the genial warmth of the spring is felt, two or three new stalks arise, which bloom in the month of May, and the beans are fit to gather at the end of July. The management of this important vegetable we give in the words of the author. 'La culture est extrêmement simple; aprés la récolte du blé fumé, on retourne la terre par un seul labour et on la laisse émietter par l'influence de la saison. Aux premiers jours de Septembre on séme les féves, soit en les enterrant á la charrue, soit en les recovrant á la herse, soit enfin avec le semoire, qui les place par rangées, de manière à pouvoir au printemps les sarcler avec la houe à cheval. Si on ne suit pas cette dernière méthode, il faut les sarcler à la main, dans le courant d'avril.' The culture of the winter bean is suited to argillaceous soils, and while it allows the proper intervals between ploughing the ground and sowing wheat which succeeds, it is admirably calculated to maintain the fertility of the ground.

The plains which border on the Po, in the vicinity of Parma and Lodi, support those fine animals, whose milk is converted into the celebrated Parmesan cheese. The grass is here far more valuable than any crop of grain. In the summer the cows are housed and fed with the green grass of the first and second mowings: that of the third is converted into hay. At the end of autumn the cows are allowed to pick up whatever may be left in the fields. These meadows are perhaps the most fertile on earth; they are generally mowed four times a year. The cheese is here never made from less than fifty cows, and as the farms are small, there is one common establishment, to which the milk is brought twice during the day; an account of it is kept by the cheese-maker and

settled in cheese every six months. The same plan has been introduced in Switzerland.

In the Milanese, the farms are larger than in other parts of Italy, because the culture of the grasses demands less care and labour than other branches of farming, and fewer advances. Irrigation is here carried to such an extent, that every two or three arpents can be inundated by its own canal. The good quality of the grass however in time becomes deteriorated, other plants gradually spring up in the place of the grasses; the sluices are then closed, and the ground is ploughed for hemp; after which, and a crop of legumes, oats, and wheat, it is again laid down in grass. A meadow will generally last fifteen years, and the course of harvests returns every five. M. de Chateauvieux gives the following remarkable outline:

1st year	Hemp, followed by legumes,
2d "	Oats,
3d "	Wheat, followed by legumes,
4th "	Indian corn,
5th "	Wheat,
15th "	Natural meadow, dunged every three years, and mowed four times a year.
20 years	67.

Of these sixty-seven crops from the same ground there are sixty-one for the use of animals, five for the sustenance of man, and only one for his clothing. There is perhaps no country on the face of the earth which can boast such a proportion of agricultural products. To obtain this result, the ground is manured, very profusely however, five times in twenty years, and it is a singular fact that this manure is applied always to the grass and never to the grain.

The culture of rice occupies a part of Italy, and is a source of great profit to the owner of the soil. The difficulties in its cultivation are so trifling, that contrary to the usual custom, the ground is let out at a fixed rent of one hundred and sixty francs the arpent; three crops are received every five years. As with us, these rice grounds are most unhealthy, and the stagnant water which covers them produces disease in all the surrounding country. The unfortunate peasant rarely escapes its deleterious effect, and the government, sensible of this constant draft on human life, have prohibited the further extension of the culture of this grain.

One of the most singular features in the physical character of Italy, is the constant elevation of the beds of rivers, particularly the Arno and the Po, by means of depositions of earth and stones, brought down by the heavy rains from the mountains. This had become so alarming, that the raising of dykes yielded to a very ingenious operation called *Colmata*, by which the water of the river was allowed to overflow a certain space, and this very deposition, about three or four inches in a year, made to raise the level of the adjacent shores. But this process, which is fully described by Sismondi, must necessarily have a limit. Embankments are resorted to, and in some places the bed of the Po is absolutely thirty feet above the level country. The Po even now frequently overflows and devastates its banks; the inhabitants, provided always for the calamity which unfortunately is not unfrequent, take to their boats and wait till the inundation has subsided. There would seem to be little doubt that at some day not far distant, the whole delta of the Po, or *Polesino*, as it is called, will become one wide and wretched marsh. Even now the roads are often impassable. Ferrara, consecrated by the genius of Ariosto and Tasso, will be extinguished, and Ravenna, already fallen from its high honours, be known only as the deserted capital of a potentate of the lower empire.

M. de Chateauvieux, climbing the mountains which separate Tuscany from Modena, and leaving behind him the fertile plains of Lombardy, entered those lofty regions, where the earth does not produce sufficient sustenance for the inhabitants, who are employed with their flocks of goats and sheep, in constantly traversing the mountains in a manner somewhat similar to that of the Spanish shepherds. The author employs himself in describing the scenery of the Corniche, and though it is perhaps among the finest in Europe, and he might have felt all its changeful beauty and sublimity, still we think that he is far more fortunate in his delineations of rural economy.

The agriculture of Tuscany has been so fully and ably investigated by Sismondi,* that little was left to M. de Chateauvieux. The valley of the Arno, in truth the only fertile part of the dukedom, (for the rest is composed of precipitous mountains, or that silent and hideous district the Maremma)

* Tableau de l'agriculture Toscane, par J. C. L. Sismondi.

stretches from Cortona to Pisa, and forms about one sixth of its whole territory. The farms are very small, being from three to six arpents, so that one pair of oxen supplies the necessities of ten or twelve metayers, in the working of their little plat of ground. They manifest, however, their extravagance in maintaining a horse, which may transport their produce to market, and their wives and daughters to mass or a rustic ball. The most general rotation of crops is here,

1st year, Indian corn, beans, peas or other legumes. dunged.
2d " Wheat,
3d " Winter beans,
4th " Wheat,
5th " Clover sown after the wheat, cut in the spring and followed by *sorgho*.

This *sorgho* is a sort of parsnip, which is reduced into flour, of which they make a bad soup and a poor polente. The ground is manured only once in five years, a circumstance which abundantly proves the richness of this deep alluvial soil. Notwithstanding all this fertility and a cultivation which resembles rather that of a garden, than a farm, the country does not produce enough to resist the effects of a bad year. The metayers live with the greatest economy, and though their cottages are built with a taste which seems indigenous to the country, the interior exhibits a total absence of all the conveniences of life, and supplies but a frugal subsistence. Such is the view which M. de Chateauvieux has taken. But in our opinion the peasantry of Tuscany under all circumstances, are not only more neat in their persons, but better clothed and apparently enjoying more happiness, than that of any other district in Italy. There can be little doubt, that all this distress and privation arises from the system of the metayers; a system which, deriving its existence from the feudal state, is equally to be deprecated, whether we consider the political character of the community or the individual happiness of its members. The man who has no other possession than his industry, and who cannot hope to change his situation, can never have such a stake in the state, as to render him either an intelligent or valuable member of it. On the other hand, the metayer bound to furnish half the seed and to divide and sell the produce,

pretty generally consumes one year the fruits of the last; or if there be a surplus, how is it to be invested? There would seem to be no other mode, than in the sticks which he is bound to supply, for the support of the vines, for the landlord provides the stock and repairs the house. He then can only lay up his money in his chest or spend it on his pleasures. Thus the end of a year finds him no better off than at its commencement, for want of such an interest in the soil, as would secure him from the effects of his negligence and indifference in its cultivation.

Before leaving this part of Italy, we ought to mention a subject which is of some little importance; the manufacture of straw hats, which has just commenced in our country. It is doubtless a most profitable exertion of industry. The raw material costs nothing, and M. de Chateauvieux informs us that this branch annually amounts to three millions (we presume) of francs. The straw is of beardless wheat, cut before it is ripe, and whose vegetation has been thinned (étiolée) by the sterility of the soil. This soil is chosen among calcareous hills; it is never manured, and the grain is sown very thick. The women who are employed in making the Leghorn hats, earn from about thirty to forty cents per day, no trifling sum in Italy.

The Maremma or country of the Malaria forms the third district, extending from Leghorn to Terracina, and from the sea to the mountains, and having a width of twenty five or thirty miles. M. de Chateauvieux speaks of this singular country in the following terms: 'Le ciel reste également pur, la verdure aussi fraîche, l'air aussi calme; la sérénité de cet aspect semble devoir inspirer une entière confiance, et je ne saurais cependant vous exprimer l' espèce d'effroi que l'on éprouve malgré soi en respirant cet air à la fois si suave et si funeste." A country so very singular in its character would necessarily require a very peculiar system of management. Our author develops this system in a visit he made, to a domain called Campo Morto, in the most deserted part of the Maremma. Here was a Fattore, charged with the adminstration of the farm. The whole Maremma of Rome is in the hands of eighty proprietors, who are called mercanti de' tenuti, and reside as well as their Fattori in the city. On this farm there were four hundred horses, of which one hundred were broken, two thousand hogs, which

ran in the woods and fed on the acorns; some hundreds of cows, who give no other revenue than the sale of the calves, which is estimated at about eight dollars each cow; one hundred oxen used to the plough, and about four thousand sheep. The rent of this farm was about eighteen francs the arpent of cultivated land, amounting in all to about $ 22,000. The annual profit was about $ 5000, besides interest at five per cent. on the capital of the flocks.

In the midst of this establishment there was a vast *casale* or farm-house, destitute of furniture and inhabited but a very few days in the year. Every thing around breathed the most perfect desolation; all was vast and silent. The harvest had just commenced and a thousand labourers, of whom one half were women, had descended from the mountains to gain a small pittance during a few days, by reaping the rich grain of six hundred and sixty arpents for the lordly proprietor, and if they did not perish at their toil, to go back after having respired the elements of a miserable death. Some days had elapsed since the harvest began, and only two labourers had been attacked by the fever of the Malaria; every day would, however, increase the number, till at the completion of their task, scarcely half of them would remain. 'What then becomes of these unfortunate people?' said M. de Chateauvieux. 'They get a piece of bread and are sent off,' was the inhuman reply. 'But where do they go to?' 'To the mountains; some stop on the road, some die, others get home almost expiring with misery and famine, only to follow the same life the next year.'

The Malaria is one of those singular phenomena whose origin has baffled every effort at discovery, and the remedy for which has never yet been ascertained. Attempts have been made to cultivate the soil of the Maremma, and colonies were established within its circuit, but the resistless scythe of sure and silent death swept away the presumptuous intruders. During half of the year, a few miserable beings, armed with lances and clothed in skins, the living images of death, wander over these devoted plains with their flocks; and if accident should delay their return to the mountains, fall certain victims to this fatal disease. Immense numbers of sheep, cows, horses, and goats find a subsistence on these wastes and supply the markets of Rome and the Val d'Arno.

The soil is extremely steril; the whiteness of the pure argil being only alloyed by a mixture of sulphur, which is produced in great profusion. The cause of the Malaria, as we before remarked, has escaped all the investigations of science; it still remains a mystery no less profound, than its effects are dreadful. Some have supposed it to arise from the low pools of stagnant waters, which collect on the face of the Maremma; but the disease prevails on the heights of Radicofani and within the lofty precincts of Volterra.

Some have supposed that the disease was caused by exposure to the sudden changes of temperature at the going down of the sun.* This is supported, it is true, by the very weighty fact related by de Bonstetten in his *Voyage au Latium*, of a man who resided at Ardea sixteen years without being indisposed. But we doubt whether any solution that has ever been proposed was so perfectly ridiculous or so completely destitute of foundation. Do the people then die in the towns of this disease, where we know it to be a custom not to go out after dark, of mere exposure to a changing atmosphere? A short distance from the Porta del Popolo at Rome are two villas, one on each side of a small lane, but both situated on high ground. We were informed that during the summer season, a man would run very imminent danger of death in sleeping in one, while he might remain in the other with perfect impunity. How is this to be reconciled with the doctrine that the disease caused by the Malaria is nothing but fever and ague, brought on by exposure? The truth is, this dreadful enemy every year makes further inroads; no longer satisfied with pursuing the wretched thousands of enervated labourers and shepherds, who at evening crowd for safety into Rome, it is advancing into the city in the midst of darkness, and spreading from the Porta del Popolo, on the one side, and from the Palatine on the other, up the sides of the Quirinal. In 1791, says M. de Chateauvieux, Rome had a population of 160,000; at the time of this visit, it numbered only 100,000, of whom more than 10,000 were gardeners, shepherds, and vine-dressers. Four years afterwards we heard it computed at from 80 to 90,000. Undoubtedly political events have had no small effect in diminishing the number of inhabitants; but still we believe the Malaria must have had a no less powerful in-

* See Edinburgh Review for March 1817, p. 57.

fluence. Annually it roams over the finest villas without the walls and ravages large districts of the town within; and neither the magnificence of the villa Borghese, nor the luxuriant beauty and towering pines of Doria Pamfili, can resist the assaults of this silent and deadly foe. Time seems to hold its mantle over the queen of cities, and to prepare by a fate as extraordinary as its former history, to blot it out from the admiration of mortals. Encompassed already by the awful stillness of a desolate waste, once filled up with sixty towns, which the antiquarian in vain attempts to trace, perhaps her own site may be hereafter unknown; and some future traveller may boast with enthusiasm of having once again penetrated its deserted streets, of having visited the spot ennobled by the heroic virtue of Junius Brutus, or the eloquence and wisdom of Cato the censor. But we must leave a subject, on which we could dwell still longer with delight, and conclude our notice of a book, of which we would hope our readers have received a favourable impression. The subject of the work is not only important in itself, but most interesting to us. Italy is essentially an agricultural country; she is neither a manufacturing nor a commercial state. It is by her agriculture, that she supports more than 17,000,000 of inhabitants, or about 1237 to a square league; a population far superior to that of France or England. It is her agriculture which laid the foundations of those splendid cities which crowd her plains; it is her agriculture, which, should it ever be protected by an enlightened government, will again yield nourishment to the principles of liberty, and raise her to a level with the most respectable nations of Europe. M. de Chateauvieux has devoted himself to the illustration of this noble subject, and we are confident that his work will not only afford many valuable hints to the practical farmer, but some lessons to our statesmen, in any future attempts which may be made, to elevate manufactures at the expense of the most dear and invaluable interests in our country.

ART. VI.—*Letters on the Eastern States.* New York, 12mo, pp. 356. Kirk & Mercein, 1820.

IT is not easy to conceive a more delicate employment than that of tracing the distinctions of national character. Besides the usual difficulty and ambiguity of all discussions of a moral nature, it involves obstacles peculiar to itself, and which increase of course in proportion to the importance of the individual subject of inquiry. We have all the varieties of national and local prejudice, all the influence of different policy, habits, and language to overcome, before we can pretend to consider ourselves as prepared to judge with accuracy of the phenomena which are constantly presented to us in the course of public events. How much more difficult is it then, to attempt not only to follow with tolerable success the course of foreign policy, and to enter however imperfectly into the public sentiment abroad, but to study the grounds of such policy and the nature of such views as existing in the character of nations. A still more difficult and uncertain kind of speculation is founded on those varieties of character and habits, which are supposed to be peculiar to nations, when not displayed so much in the policy of the government, as in the domestic manners, the degree of refinement, and the peculiarities of the internal society of a people. It certainly will be well for the cause of public improvement, when those, who undertake the exercise of this delicate and important part of duty, shall be led to consider themselves less as partizans and theorists, and more as observers and historians. We know of nothing more vexatious, than to encounter a man possessed of all the requisite literary qualifications, and who has enjoyed the advantages of a difficult and expensive voyage, to regions with regard to which we have a lively curiosity, and who yet presents you in his report such a strange compound of prejudice, favoritism, theory, and party interest, that nothing short of a laborious analysis will enable you to get at the truth which may lie at the bottom. One would think, however, though this held true of missionary and diplomatic voyages to the East, or colonization expeditions to Africa, that still we might expect the result of calm and philosophical observation, in the productions of men of leisure and accomplishments relating to their neighbours, with whom it is their duty and policy to be

best acquainted. Mr. Irving indeed, in his Sketch Book, remarks that he would trust an English traveller sooner in an account of a remote and unknown region, than of a neighbouring kingdom. And yet one is grieved to see a traveller passing through France, so infected with political prejudice, as to find there nothing but suffering and crime; or returning from every delightful excursion in Italy, with nothing but illustrations of her political infirmities. With regard to ourselves, we may not have those claims which Italy and France present to the indulgence of travellers. We have been sometimes visited, indeed, but principally by those, who, like the ancient philosopher, were willing 'to suck some profit from our courtesy.' After our complaisant guests have received the applause of their employers at Birmingham and Glasgow, for their accuracy in accounts of the state of the market and the nicety of their calculations of the prices of stock, they have commonly applied their enlightened and accomplished habits of observation to our moral and national character. And while one half of their reports has served to direct their employers in their shipments of broadcloth and hardware, the other has furnished the materials from which critics, philosophers, and statesmen 'flatter themselves that they are well acquainted with the American character.' How safe a dependence may be placed on these materials, even when presented on somewhat higher authority than that of mercantile clerks and agents, is seen in the assertion of Ensign Hall, who judiciously remarks, at the close of an elaborate essay on the internal politics of America, that 'the late war was unsupported by either party, who were desirous of shifting each upon the other the odium of projecting it.'

It has, indeed, been unfortunate for us that we have laboured under such peculiar disadvantages in the course of our examination before the very impartial tribunals of foreign supervision. This, however, begins to be understood, and at any rate we may congratulate ourselves on the determination which seems to have been lately made among us, not to plead guilty to every charge, however boldly and confidently preferred.

Not to engage in the discussion so often repeated, why America is not a book-making country, nor to insist on the difference between this and a book-reading and book-under-

standing country, we may remark, that in no connexion has the want of book-making among us been productive of more visible evil, than in this, that we leave it to foreigners to describe us. It is some excuse for believing, we had almost said for fabricating false accounts of us, that we ourselves, whose business it is, have done so little toward furnishing the world with true ones. The work before us is entitled therefore to the higher commendation, as being, on the whole, the most respectable effort which has been made toward a description of the local manners, character, and peculiarities of any portion of our country. So long as its author chooses to remain anonymous, a protection from criticism, which, we assure him, he has no need to assume, we must content ourselves with pronouncing his work to be evidently that of a scholar and a gentleman, of an impartial observer, a temperate champion, a liberal opponent, and a correct writer. Were we to speak of any general fault, it would be an occasional paucity of facts, which are the life, and substance, and foundation of all interest in works of this nature; a fondness of running a little too far into disquisitions, which, however judicious, are not always sufficiently pertinent; and a want, at times, of a liveliness in the style. But we are sure these defects are more than atoned for by the manly and national spirit which breathes in the work, by the true candour not consisting in insincere compliments to political adversaries, but in as fair an estimation as a person fond of one opinion can ever make of another, by singular freedom from the morose irony of sentiment, if we may so call it, which is remarkably infecting the literature of our countrymen beyond the sea, and by a correctness of language not often equalled by our American writers.

The work contains sixteen letters. They bear rather a desultory air in their titles, but seem nevertheless to be in fact systematically arranged. The importance of their subjects varies from literature, commerce, politics, and the fine arts, to 'certain funeral ceremonies:' the least important, though not the least pleasing of the letters. We shall make several extracts from them, with such remarks as they suggest to us.

The following account is given of the funeral ceremonies in the south of Italy.

'In the south of Italy, the last care of friends is to array the deceased in a full dress: if a man, his hair is powdered, a sword

put by his side, and a bouquet at his breast, and then the body is delivered to monks, or to one of those benevolent fraternities that devote themselves to the service of the hospitals and the burial of the dead. It is taken by them through the streets, exposed in the coffin serving for many generations, and carried to some church, where a mass being said over it, the sexton receives it into his possession, strips it naked, *and burns it.* Nothing can be more repulsive to unaccustomed eyes than this hideous contrast of ghastly death with the gaudy trappings of dress.' p. 9.

Without undertaking to dispute what is thus asserted without hesitation, we can only say that the burning of the dead, at the present day, in Italy, is a fact that had not before come to our knowledge. In those of the Italian cities, where we have had opportunies of making observation, the rich and noble are deposited beneath the churches, and the poor thrown into public vaults. Notwithstanding some revolting circumstances in the Italian funerals, few sights are more striking than that of a funeral train in the evening at Rome, composed of one or two of the fraternities alluded to in the extract just made from our author, all clad in a uniform, often white, with a mask of linen over the face, sweeping through the dusky streets with their lighted torches, and chanting, not rarely with fine voices, the solemn funeral service. The Turkish burying grounds present a more grateful spectacle to the eye, than any of which we have an account. At the head and foot of each grave, in those parts of the Turkish empire where the climate will allow it, is planted a cypress; that beautiful tree, which our severe winters unhappily deny to us, and which our author inadvertently recommends as an ornament in our grave yards. As the depositories of the departed are held sacred in Turkey, these groves of tall, rich cypress are never invaded, and increase with every year about the gates of the large cities. Without some of the gates of Constantinople, are funeral groves of this kind, covering many acres, and resorted to as an evening promenade. You literally pass through a city of the dead on the way to the city of the living; and the aspect of these trees shading the departed generations, the white grave-stones surmounted by turbans which are occasionally painted green, the grave-stones themselves covered with Turkish inscriptions and texts of the Koran, in raised characters, the groups seen walking, or reclining and smoking among them, while a Cafegy sets up

his little apparatus on the tomb-stone perhaps of an Emir, to furnish coffee to those who come to sit an hour beneath the cypress trees, form altogether one of the most picturesque scenes of the venerable East.

The chapter on politics, that subject which seems hopeless even in the hands of candour herself, is temperate and philosophical. The writer shows himself to be one who has been brought up in the old federal party; and goes quite as far as a majority of his co-members will go with him, in commenting on the present dissolution of that party, and in fact, of that opposed to it, and the train of events by which this has taken place. As we hold it very important that some such views as our author entertains should be urgently inculcated on the American community, we request our readers' attention to the following extracts.

'The federal party has in fact been extinct for some time. You will excuse me for dwelling at all on so obvious a truth, because a number of demagogues here have a lively interest in maintaining the contrary, as it gives them a pretension to that exclusive favour at Washington, which they would else be without. We also see occasionally some people at the south, beating the air with the cry of federalism, probably from habit. If the majority of people in the state of Maryland do not choose to be governed by the banditti of Baltimore; or in Massachusetts are unwilling to displace a gallant revolutionary patriot, against whom no shadow of reproach can be cast; and if these people are called federalists, it is still idle to talk of the federal party. In some states it had never any existence at all, and in many others has long ceased from any exertion. As its extinction was announced by no formal act, it cannot be dated exactly: it may be said to have terminated when the late war commenced, though an opportunity was then furnished it for renewal, which was lost, perhaps fortunately so; or at least it expired with the termination of that war, and since the last presidential election, not a trace of it as a national party can be found.' p. 23, 24.

If this should seem like hurrying off with too little ceremony a political association of a character so respectable, and of claims so high as the federal party, it will be considerably softened to those, who still cherish the distinction, by the following qualifications.

'This party will have justice done to it by posterity. Its services or its errors I neither wish to magnify, nor extenuate.

When contemporary partialities and enmities shall be forgotten, it will be considered one of the most illustrious combinations to be found in the annals of freedom. But this is not the time to write its history: there are too many yet alive, to borrow a figure of Mr. Grattan's, "who have sat by its cradle, and who have followed its hearse." Called into existence to administer and support that glorious constitution, which the wisdom of the states had adopted, it commenced its career with the purest feelings of patriotism. The nation held in pledge for an upright management of its affairs, the noblest reputation which modern times have known. Almost all the survivors of the revolutionary struggle, who had been eminent in the council or the field, were to be found in its ranks, and they who had achieved the independence of their country, were called upon to preserve it. Surrounded with difficulties in the outset, struggling against the undisguised ill will of one nation, and the insidious friendship of another, they had all the departments of the public service to create, and at the same time to adjust the machinery of a new government on a young, restive, and expanding nation. Envy, jealousy, and ambition were soon busily employed, to impede their progress, misrepresent their actions, and exaggerate their errors. The universal frenzy of the French Revolution brought timely aid to their exertions; men's minds became so excited by the electric state of the times, that all sober judgment was prevented, and passion decided on the results of calculation. Fortunately it withstood the torrent long enough to save the nation from the incalculable evils of an alliance with revolutionary Europe; in whose vortex, if we had once been involved, we should, when the whirlpool had subsided, like some others, have disappeared altogether, or rose to the surface disfigured, disgraced, and mutilated.

'When this party was thrown out of power, its conduct in opposition, with very few exceptions, added new dignity to its former character. Exposed to a proscription the most universal, it received the assurance that there was no hope for personal ambition in its ranks, conveyed in the remarkable compliment, that the time did not exist when it could only be inquired respecting a candidate for office, "is he honest? is he capable? is he attached to the constitution?" Yet with true magnanimity, they struggled hard to defend, for the interests of the nation, those institutions from which they were precluded, against the short-sightedness, bigotry, and zeal of an increasing, angry, intolerant party. They strove to preserve the edifices from which they had been driven, and to keep those who were in possession from devastating and destroying them. Their efforts were not wholly unavailing; the army, navy, finance, judiciary, all suffered dilapidation,

and the nation enormous loss and subsequent mischief; but the foundations remained; and after a period, when some very poignant lessons had been inflicted by events, those who had exulted in the demolition, began to assist in their re-construction.' pp. 24, 25, 26.

These general views we think just; coming from a federalist, they are magnanimous. It is a more curious question, than the causes which have weakened the old party discussions, what new divisions will succeed them. One is rather timid in hazarding prophecies, when one reflects what a caprice discovers itself in the organization and fortunes of parties in free countries, and remembers that it was the death of Pompey's wife, which overturned the Roman republic. For ourselves, we are inclined to think that there will be no permanent new division of parties at present. The Missouri question, which came as near forming such a new division as could have been done by any single question, nay by a large series of common political controversies, failed even in the moment of its own decision, to produce a perfect geographical organization. And notwithstanding the excitement felt at the time, it does not appear that a single subsequent vote, on any disconnected topic, was affected by a reference to the Missouri question. We doubt moreover whether any party, purely and unanimously *geographical*, can subsist among us. The old party divisions were nourished and kept up, by having, not state against state nor section against section, but town against town, aye, family against family, and the son against the father, and the son-in-law against the father-in-law, so that a man's foes were those of his own household. This makes hatred keen, deep, and precious. You do not care enough about people two thousand or one thousand miles off, to wage a speculative war with them, upon an interest in which you have only a limited community. It is when party spirit comes into the city, the village, and the house, and beats up for recruits among the thousand personal associations, old family quarrels, parish jealousies, neighbourly slights and affronts, rancorous recollections of school-boy days, pinings at your neighbour's wider acres, or more numerous ships, or brighter children; when party spirit can mix up all these bitter drugs in her cup, it then acquires a rare and genuine bitterness. So long, therefore, as the question of slavery produces unan-

imity among our Southern and Western brethren, (and there was not a single defection among them in the last session, for we consider the states north-west of the Ohio as naturally prone here to go with the non slave holding states,) we think there is no danger of its becoming the ground of a permanent party division. Nothing, we think, can ever become the ground of such a division, which does not pierce through the great masses of the country, and set its individual atoms at war with each other. Separations of the states or sections of the states may indeed grow out of controversies, which produce an unanimous geographical opposition of opinion; but notwithstanding the unpleasant frequency with which allusions were made to a severance of the union, during the Missouri controversy, we apprehend no such disastrous result from any such measure. No separation of the states can ensue, but from vast positive inconveniences and sufferings bearing upon one portion of the states, in consequence of the union. No such oppression of the Northern states results from the existence or diffusion of slavery, since there is little doubt that the five slaves, who have three votes in Congress, fill up the places of at least five freemen on the soil, and that the slave-holding states really lose by this check on their white population, more than they gain by the ratio of representation.

For the same reason, that we do not think there was any danger that a new division of parties would grow out of the Missouri question, we are inclined to differ from a large number of our politicians, who look forward to an ultimate geographical division of the country into the Atlantic and Western parties. The same considerations hold here, that we just adduced in reference to the Missouri question. There is no ground of party animosity, in the circumstance of belonging severally to the Atlantic and transmontane states. There is nothing for the hostile feeling to begin upon. Moreover, the general national interests of the Atlantic and Western states are the same. The western regions will always wish for the naval power of the littoral states, to keep open the Mississippi; and on the other hand, every thing that could make it an object with any foreign power to be in alliance with the western country, would make it tenfold an object with us to continue in the same confederacy with them. No perfection, to which the navigation of the Mississippi can be

brought, will ever make the internal market of supply in the West a matter of indifference to the Middle States on the coast. And just in proportion to the increase of the western products in amount and value, will it be the interest of the navigating states to secure them to themselves for consumption or the carrying trade. We here leave out of view all those higher national and moral associations, which we think are gaining strength daily, and heightening the sympathy between the East and the West. We rejoice that there are such associations, to come in aid of considerations of interest, in strengthening the bonds of union. We rejoice in every thing which tends to call these associations into notice; and for ourselves, instead of sharing the discontent, which has been felt, not extensively we trust, by some of our fellow citizens of New York, that the name of Ohio was given, by lot, to the fine ship lately launched from their dock yards, we should rather congratulate them on having their ship known by the name of a free republic, that has grown up from the wilderness with a rapidity, which seems to carry us back to the ages of romance.

We do not see, with respect to the main question before us, on what a new party division can be founded. That something will turn up to produce one, can hardly be doubted; but whether it will be any thing more, for a long time, than an electioneering organization, growing out of personal attachment to various candidates for the presidency, we cannot say. For ourselves, we should deprecate such a state of things; for notwithstanding all the evils resulting from an obstinate division of the country into two hostile parties, we think that a division produced or regulated merely by the personal intrigues of rival candidates for the presidency would be still more pernicious and corrupting.

It will depend on each individual reader's previous opinions, what justice he will ascribe to our author's general delineation of the principles of the federal party. It will be allowed, on all hands, that they are at least stated with clearness and moderation: and there will be, we imagine, but one opinion of the justice of the following remarks at the close of the chapter.

'Much of this is owing to local position, but it would be false modesty to deny, that much of it is owing to ourselves, to the patriotism, integrity, ability and moderation of our public men,

and to the intelligence and morality of our citizens at large. Our character and condition attract daily more and more of the attention of the world. The late war was productive of inestimable benefit in this way; it made us known and respected by other nations. Our youth and our distance had made us little regarded, often misrepresented, and very falsely appreciated. Dragged into war at the end of a long quarrel, which had desolated every nation in Europe, and given military glory an unfortunate superiority over all others, we soon gave decisive proofs that peace had not made us timid, nor liberty ungovernable. The vulgar glory which arises from gallantry and skill in war, we showed ourselves capable of attaining, not by an equivocal struggle with a weak nation, but in a hardy conflict with the strongest. Foreigners who see us abroad, or visit us at home, estimate us more justly, since recent events have dissipated so many prejudices. The old routine of calumny begins to be discontinued, and though some exaggeration may grow out of the re-action, we shall hereafter be better understood.' pp. 58, 59.

We quote these remarks, not as being new, but as being just and seasonable; and as conveying a great truth that our political and social privileges go far toward recompensing us for what accomplishments we still need. The author of an abstract of Seybert's Statistics, in the last Edinburgh Review which has reached us, besides asking 'who ever looks at an American picture or reads an American book,'* would also do well to ask, who ever saw an American popular assembly trampled down by dragoons, or heard of an American *habeas corpus* act suspended. The Corinthian capital may be quite becoming, but after all is not so necessary as the shaft. Let the walls of our cities sleep like Plato's on the ground, if we can have *men* within the simple furrow of the republic. And to any reproaches, which may be made on us for our deficiency in the accomplishments of an old, luxurious, and corrupted state of society, let us have our answer in the words of the honest barbarian: ΕΛΕΥΘΕΡΙΑΣ *ἐπεθύμουν· καλὸν γάρ μοι ἐδόκει εἶναι, καὶ ἀντὸν ἐλεύθερον εἶναι καὶ παισὶν ἐλευθερίαν καταλίπειν.*

* We should recommend the putting of the first of these questions to the Marquis of Stafford and Marquis of Lansdowne, who, if we are not misinformed, have not only looked at the pictures of Allston and Leslie, but actually bought them; and the other question, to the author of a late article in the Edinburgh Review, in which Mr. Cleaveland's Mineralogy is called the best work on the subject in the English language.

The letter *on Religion* contains considerable good matter, and is as judiciously written as you can expect from a layman. It is not quite rich enough in fact, and the attempt particularly to give a sketch of the history of religious *liberality* in Boston is deficient in correctness. This is a very curious question, to be solved by an investigation running far back into our history, and by no means to be settled by a few candid paragraphs. It stands on the covers of our Review, that it is devoted to no theological sect. And though some honourable men have paid their consciences the compliment of denying this, our readers can bear us witness that it is true; and it is in the full intention to be faithful to this pledge, that we except to the remarks on the subject of Episcopalianism, which close the third letter. As far as a written form of prayer is concerned, Presbyterians as we are, we are inclined to prefer it; well aware notwithstanding, that it is liable to some objections, particularly to the very one, usually made by Episcopalians to the practice of extemporaneous prayer, viz. 'the impropriety of committing the solemn duty of praying for you, to another man.' This is done equally by the Episcopalian and the Presbyterian. The Presbyterian confides this duty to the minister, who has grown up in the same region, perhaps in the same neighbourhood, whose mind is formed on the same model, who is personally connected with him, by the most sacred ties, and enabled in consequence of all this, if a man can ever be enabled to do it, to enter into the spirit and feelings of those, with whom and for whom he prays. While the Episcopalian confides this duty to the English prelates, who two hundred years ago compiled the book of Common Prayer from the Roman catholic missal, with as few alterations as their doctrines required; a compilation, which, in a few political articles, has been adapted to American use. Which prayers promise to be best adapted to the worshipper's personal need?

But, says the Episcopalian, I have my prayer written, I can examine it before hand, and satisfy myself that it contains nothing which I disapprove; while the Presbyterian is at the mercy of the preacher, who may bolt out no one can foresee with what offensive matter. But this objection is theoretical, and of no practical importance among us. Were our ministers presented to their livings, it might be another thing. But where the people choose their minister, as with

us, there is really no danger of his shocking them, by putting up petitions, or expressing feelings, in which they cannot join. And surely no candid Episcopalian will deny, that there will as often be cases, in which the mind or conscience of an individual Episcopalian will be so peculiarly constructed, as to take offence at some portions of the printed service, as cases in which the extemporaneous devotions of the Congregational minister will be offensive to the feelings of his flock. And if it were supposed possible that prayers composed in another country and two centuries ago could prove perfectly and unanimously acceptable and appropriate to the feelings and characters of christians at the present day, then it is very clear that this could only be in consequence of a cold generality, by which they would lose as much in immediate pertinency, as they gained in comprehensive appropriateness.

Again, if a printed service fixes attention, repetition destroys interest, and leads to formality and lip-service. It is no uncommon thing to see the eyes wandering, while the lips are repeating by rote, what long familiarity has divested of its solemnity. For this reason, though we have said above that we should on the whole be pleased to have a form of written prayer introduced into our congregational churches, we would by no means have it confined to a single form of morning and evening prayer, but we would have a large collection of services, which would prevent the recurrence of the same form, more than three or four times a year. A good specimen of such a collection of services is found at the end of the prayer-book of King's chapel in Boston; though we are not able to say whether any public use is made of them. They would fill to great advantage the place which is taken up in the prayer-book of the episcopal church, by the barbarous translation of the Psalter.

The letter on commerce contains many fine remarks on the spirit of modern society, in opposition to that of the ancient world, and the agency of commerce in forming this spirit. We have no doubt that the author's doctrine would bear pushing even farther than he carries it, in the following observations.

'The state of commerce, as it now exists in the world, has rendered many prejudices, originally just, and long hereditary, now obsolete. When the merchants of the world were in proportion

to its commerce, and little more than a groupe of peddlers and usurers, it was allowable to view them with contempt or hatred. But when their operations have extended, till a single individual employs more persons, and receives a greater income, than some princes, the case is altered. We have lately seen, that one of them might almost be considered a party at the Congress of Aix le Chapelle, without whose agency, at least, the sovereigns could not have terminated their arrangements. Mercantile transactions, by the extension of commerce, are widely diffused, and every man who has any thing beyond his own wants, is obliged to partake of them. The agriculturist, who employs any capital, must be extensively engaged in buying and selling; and he must be conversant with many commercial transactions, and keep in view the general state of commerce, or he will be a great loser. There are, besides, a large number of individuals, who as bankers, insurers, stockholders, or adventurers in different voyages, employ their capital in trade, though in a manner that leaves them great leisure for amusements or instruction. It is these numerous classes of individuals, with characters more or less elevated, that connect the profession of commerce with the leading ranks of society. Education in a free country is the chief test of respectability, and as the sons of merchants receive the same education with those of princes, and often profit by it more, it is the fault or the choice of the individual if his station be not conspicuous.' pp. 113, 114.

It is not uncommon to hear persons, who would be thought to reason not blindly from national prejudices and habits, but philosophically from the nature of things, assert the advantage and ornament resulting to society, from an hereditary order of nobility, and maintain that the want of such an order throws a vulgar, mercenary, business-like air upon the institutions and character of a nation. They say that there should be a class of men born and educated to administer the state; men whom high birth and hereditary fortune make independent of the patronage of the government, and the favour of the people, and men in whom the elegances and refinements of life may be cherished and descend improved, by transmission, from generation to generation of affluence and ease. This sounds tolerably well in theory; the only misfortune is, that all the truth, which it contains, is applicable only to ages long since, with all their institutions, numbered with what has been; and that in our modern state of society not a word of these fancied privileges holds in

point of fact. Six centuries ago, when the soil was covered with villains, when the population, as our author correctly states it, was divided between baron, priest, and peasant, it was a convenience to have an hereditary class, born to information and cultivation enough to administer the state. That is to say, as the feudal system wholly incapacitated the mass of the people from understanding or pursuing their interests, or rather left them no interests to understand or pursue, it was well that it left a certain class in a condition to manage the privileges which it secured to them. But all this is altered now. You allow the chance of birth to distinguish a man and to confer on him important rights, although he is not in consequence of this birth a whit better educated, better bred, or richer than many of his neighbours. It is impossible to distinguish an Earl or a Marquis in a drawing room or at a dinner table by his dress, by his manners, by his information; by any thing, in short, but a deal of courtesy which you see lavished upon him, for no mortal reason that you perceive, till the secret is disclosed to you, by hearing the magical 'my lord.' In this state of things, the conferring of great civil privileges upon the chance of birth which brings no other immunity with it, instead of a benefit, is an injury to society. Common sense teaches this, and observation teaches it too. The house of lords in England, though unquestionably the richest body of its size in the world, would find it hard perhaps to establish a proportionate character of independence. They are not a barrier between the people and the crown, but of necessity the allies of the crown against the people. Moreover, the gradation of ranks provides a bribe large enough and tempting enough to assail the sternest fortress of lordly independence; and an Earl with £50,000 a year, who would fain be a Marquis, or a Duke who would gladly be a minister, is as dependent 'on the fountain of honour,' as the candidate, who has to coax the populace for their suffrages. Besides, these same hereditary honours bear other fruits than those of good manners and courtesy; they often end in profligacy and imbecility, and the great characters of a nation, like the finest fruits, are oftener found wild in the forest of society, than raised from the seed. Nature, it is true, in scattering her gifts indiscriminately, does not withhold them from the aristocracy; but even in England, where birth enjoys such a paralyzing

predominance, it is the rank of active, professional, middle life, that furnishes the state with its wisest, greatest, and most honourable servants. And where the children of the aristocracy have distinguished themselves and gained a name as enlightened, practical, successful politicians, statesmen, and civilians, it is not in virtue of any quality derived from their parents, from any superior hereditary skill, but by being obliged, from the state of society, to descend more or less into the ranks of the people; it is from being disciplined in the house of commons, to which they are admitted in consequence of that curious evasion of the English constitution which regards the son of Peer as a Commoner; it is by being forced to march in the ranks and put their shoulders to the wheel, and live, and study, and work like citizens, that so much good has been brought out of the aristocracy in England.

We have but one more remark to make on this subject, that after all, it is not so much birth as rich birth, which is respected in that country. If it be objected to us, that we have no aristocracy in America, but the mercenary one of wealth, we may with truth reply, that the case differs but by a hair in England. The prodigious influence of the nobility, in that country, is mostly owing to their overgrown estates. A poor lord is as cold and powerless an existence, as the shadow of a withered branch cast by the waning moon on the waters. Moreover, there is no coronet so bright, which is not ready to restore its jewels from the mines of the city. The sons of Dukes marry the daughters of bankers, and the impoverished sultanas of the West end form alliances with the offspring of the nabobs of Lombard street, whom a university education, a tour on the continent, a commission in the army or navy, or a seat in parliament, if well backed with three per cent consols, polishes up into fit partners for the proudest daughters of dilapidated nobility. Now where the hereditary aristocracy is itself to be bought and sold, we hold it to be somewhat idle to sneer at an aristocracy of wealth. The true aristocracy, that which is most favorable to virtue and knowledge, would be the simple aristocracy of moral goodness. The condition of human nature requires that to this should be added the additional quality of intellectual talents, since mere goodness does not qualify a man to manage great concerns. The happiest state of society,

and that most favourable to the development of the highest models of character, would therefore be that where there were no other aristocracy but that of virtue and talents. But in proportion to the refinement and extent of social relations, the importance of wealth and the influence which it gives increase, and so a third element comes to be added to that combination of advantages, which we call aristocracy. Let but this wealth, by a constant partition of estates, return into the channels of society ; do not put it into the power of profligacy, intemperance, debauchery, and gaming, in violation of the laws of nature, to remain rich, and to transmit a princely estate to the heir of these vices, throw open all the paths of industry to all, who are willing to walk in them, and you will not much pervert the standard of things, by allowing to wealth that influence in society, which, under such circumstances, it may almost be said to deserve. But if you go further, if you take this wealth out of the market of merit, if you lock it up in iron mortmain, from which no industry or skill can draw into the public stock, nay, which profligacy and vice cannot, by the only redemption that belongs to profligacy and vice, scatter abroad for the public good, then you have, in the truest sense of the word, a mercenary aristocracy ; an aristocracy purely and exclusively built on money ; not alleviated, as with us, by the dependence of this wealth on many good qualities commonly necessary to acquire or keep it ; but resting on the grossest and basest foundation of a lucre, which no industry has acquired, nor temperance preserved, nor providence handed down, but which comes in a vile physical transmission.

Our author's letter on the literature of the Eastern States contains a series of just remarks, not confined in their pertinency to this part of the country, but equally applicable to the whole Union, and as interesting as any remarks upon this trite subject can be. We should not have reverted to it, but have considered the case too well understood by all sensible foreigners to need farther prosing, had not the article, in the last Edinburgh Review which has reached us, sagaciously started the whole controversy anew. The ingenious author of the abstract of Seybert's Statistics, in that number, appears highly pleased with a discovery which he has made, that the Americans have neither manufacturing, mechanical, literary, nor scientific skill ; and asks who sleeps on an American

blanket or reads an American poem, in the same breath, and apparently with the same estimation of the degree of power displayed in the two productions. We wish we were able to give him as satisfactory an answer to the one question as to the other; but are sorry that while our blankets are quite as warm, and twice as cheap as the English, we have not yet been able to get a supply of native poetry into the market, at all adapted to the taste of the people, or proportioned to the consumption. But we take great pleasure in assuring our brethren abroad, whose confidence and want of information on American concerns stand, if they will believe us, in most ludicrous contrast, that the literary manufacture and literary profession is looking up among us. To talk seriously, we know of no subject on which so much has been said, with regard to which the judgments, even of respectable foreigners, have been marked with such a strange unfairness as this. We are at one time called a young country, and reproached with having produced none of the fruits of an age of primeval and Homeric freshness. As if a colony drafted from England in the seventeenth and eighteenth centuries, and kept connected by a constant commercial, political, and literary intercourse, could be young in any respect that is favourable to originality of literature. While on the other hand, this our just defence is turned into a battery against us; and we are asked by other detracters why, with all this connexion and unity with the parent state, we have not produced, in our proportion, a literature equal to hers; without adverting to the condition of a handful of men thrown upon a hemisphere where every career is open to every man, and the mind is either forced or drawn away from severer literary discipline by the hardships of an early settlement, or the want of patronage in a scattered community, or the seduction of pursuits which are more tempting to the love of power or of money. In short, why will any judicious European so stultify himself, as to maintain a natural inferiority of American intellect; or denying any such inferiority, why will he not allow that every thing else must be the effect of circumstances, which are so rapidly ceasing to exist and operate, that before it crosses the Atlantic his censure often ceases to be deserved? Our literary character is advancing with our political and civil progress; we produce more and better books every year, our places of education are constantly improving, the tone of lite-

rary intercourse is regularly elevated, and the public taste growing daily more simple and pure. If this does not satisfy our brethren abroad, we are unable to satisfy them; and nothing is left to us but to hold on our way; and if we cannot congratulate ourselves upon their civility and sympathy, be stung at least to greater zeal by their taunts.

We shall, for the edification of our readers at home, allude to one circumstance which has had an unfavourable influence on our literary progress, to which, if we mistake not, our author has not adverted, viz. the number of our large towns that divide the patronage, which were scarce enough if collected, and thus leave us without a literary metropolis. We have three or four cities sufficiently large, wealthy, and refined to require no contemptible amount of literature to give a savour to their social intercourse. A division and dispersion thus ensues, and the evil, in itself great, is so aggravated by the want of mechanical accommodations, that it is much easier to send a small packet of books to Liverpool than to Philadelphia. We do not mean to say that this want of a literary metropolis is an insuperable obstacle to a high degree of literary eminence. Germany would furnish a remarkable refutation of such an assertion, did we make it. But in Germany the natural effect of scattering the learned throughout the cities and universities of that extensive country, is counteracted by the extreme density of the population, the want of paths by which the superfluous throng can travel the weary pilgrimage of life, the want of commerce to carry away the ardent or avaricious, the political tyranny that shuts the ambitious out of the administration, the feudal tenures that lock up the land, and the defined boundary drawn round each of the states of the old world, and thus cutting off at once that everlasting migration by which our generations are sown broadcast from the Alleghanies to the Rocky Mountains. All these causes, we say, unite to counteract the want of a literary metropolis in Germany. When these causes shall exist with us, or the sole cause a dense population, we shall less feel the want of a literary centre. But it is obvious that in proportion to the number of large towns in the country, which act as centres to that portion of the literary community within their attraction, the period necessary to fill up the intermediate spaces, and bring upon all the salutary pressure of a keen competition, must be protracted. It has some times occurred

to us, mean time, that a little might be done toward producing a greater sympathy and concert among the distant members of our literary community. Why might not our scientific and philosophical societies in Philadelphia, New York, and Boston, be united into one respectable institute, whose joint efforts and resources would be adequate to the stated publication of a volume of transactions that would do honour to the country, whose meetings and conferences could not but nourish a larger and more catholic spirit than now prevails in our literary community, and thus bring to bear on one point, with proportioned efficacy, the forces that are now exerted to far less purpose in so many different directions.

In his letter on the fine arts, our author indulges in some anticipations of our improvement, which, we hope, while he utters them, are proving just. Though it has been the standing shame of the metropolis of the Eastern States, that it has remained so long without an institution for the fine arts, or at least the common convenience of an exhibition-room, we are not without hope that this reproach will be soon wiped away, and as we are now producing pictures worth looking at, that we shall not continue without a hall that is fit to show them in. With respect to architecture, the remarks of our author are so just and seasonable, that we cannot forbear a long extract of them.

'There is one of the arts that is so indispensable in almost all climates of the world, that every people, above the condition of troglodytes, are obliged to recur to it. Shelter, in many countries, is as necessary as food, yet how imperfect with us is the art that prepares it. How few buildings in this country, either public or private, are constructed with a due regard to the principles of beauty, or a wise distribution as to convenience for the occupants. How often are they left to mere mechanics, who erect them with the aid of the 'Builder's Assistant,' with about the same degree of success that would be obtained in a correspondence, guided by the 'Complete Letter Writer.' Surely, next to agriculture, architecture should receive the fostering care of the state, when so much of the economy, the appearance, and the comfort of a country, depend on its being well understood, and thoroughly adapted to all the wide variety of purposes to which it is subservient.

'A foundation for a school of architecture is now peculiarly necessary. Our buildings, public and private, are every year becoming more important and expensive. Our race of wooden

buildings are annually decaying, and more permanent ones erecting in their stead. Bad and inconvenient plans and designs, violating the principles of the art, are now more than ever to be deplored; because, when of wood, they might have decayed, or been burnt up; but now, all blunders will last for centuries. Almost every year there are some churches building;—what a pity that we could not get a style of building better suited to the purpose of religious worship, than those awkward wooden lanterns, that are almost every where exhibited. The period has now gone by, when the spirit of religious dissent, which proscribed the Lord's Prayer, and the reading of the Bible, determined also to dispense with every thing like dignity and solemnity in churches, as abominations, that would lead to dangerous errors. Probably, in many parishes, they might now be brought to give up having a window to each pew, out of which they could all stare at any passing object, whilst the minister was performing their duty of devotion; and they might be induced to have their meeting-house so constructed, that the congregation should be separated from all exteriour objects, and being freed from the glare of sunshine and cross lights, find, in the solemnity of more sober tones and perfect seclusion, appropriate situation for the exercises of devotion.' 154—156.

Milizia, the most approved modern writer on architecture, has a remark to the following effect: 'The main cause which has produced the decline or impeded the progress of the arts and sciences, is the ignorance of its professors. But in architecture, another most powerful cause conspires with this, the ignorance of employers. It is not enough to have intelligent architects; it is necessary that those, who employ them, should also have a competent acquaintance with the art.'* This remark of the Italian author may serve as a preface to the following statements from the work before us.

'Trinity church, in the Gothic style, at New Haven, is the handsomest church in this part of the Union; there are in Boston, Providence, and in some other towns, places of public worship that are not destitute of merit, but it is united with great defects. It would be an invidious task to point out all these, but there are two cases when bad taste has operated to destroy a good effect, where it might have been produced, that may be mentioned as examples. A church was built a few years since in Boston, for which the original design was very handsome. It was intended

* Principj di Architettura Civile di Francesco Milizia, 3za Ed. Bassano. 1813. tom. iii. 219.

to be a parallelogram, with a Doric portico; the walls were plain, with large windows, making only one story, and built of a beautiful white granite. Thus far the original design; but the plans of an architect have to pass through the hands of a committee. The first thing that was done, was to add a steeple; a very pretty one; and this though a sort of monster in the architecture, is justifiable, from the agreeable effect it produces at a distance: no church indeed ought to be built without one; a village spire is always picturesque, and awakens pleasing emotions; and the effect of steeples and domes, in giving an air of animation and grandeur to a town, may be judged of negatively, by seeing what a dull, lifeless, unmeaning aspect Philadelphia presents to the observer without, though it is such a handsome city within. The next alteration was to change the form to an octagon, a figure which is appropriate enough for a crystal, but is an absurdity in architecture. The portico was Doric, but these columns, though made of wood, were with an Ionic proportion! thus mutilating and destroying its whole beauty. To remedy this glaring fault, an addition, which does not belong to the order, was put on at the bottom, to diminish their dyspeptic appearance, that only increased the disorder. If it had been proposed to paint one red, one green, one blue, one yellow, it would have been scoffed at as absurd; and yet it would have been a less grievous blunder than has been committed now; for it is not uncommon in Italy to see columns of different coloured marbles in the same edifice where the proportions are all alike. Fortunately these deformed columns are of wood, and must soon grow shabby. They will then perhaps be replaced by columns of the Nova Scotia freestone, which is easily worked, and is now getting into use here, for every thing where the chisel is required.' 157—159.

So long as our churches are likely to constitute by far the greater part of our public edifices, it were much to be wished that our taste should take a decidedly good direction in their construction. Much certainly has been done in this way. The new church in Baltimore is probably not surpassed in America for the pure and classic merits as well as the imposing qualities of architecture; and to say that it is not perfect is merely to say that it is a modern building. The new episcopal church in Boston presents a front more purely classical than the church at Baltimore, and with such good examples in this generation, who knows but our posterity may get to relish the simple Doric majesty, from which the art for more than two thousand years has been declining.

The seventh letter is on 'the relative rank of Americans,' or rather on the absence of such a distinction. This is a subject, which one must have been the witness of a foreign aristocracy and the full grown babyisms of European heraldry, fully to understand. There is one thing which has always amused us, the simplicity with which some of the English censors have reprobated our use of titles; and as we have nothing more to the purpose of our own on this topic, we will venture to make a short extract from 'the resolutions to be proposed in the house of representatives,' which we quoted in our last number. 'Whereas no little pleasantry and ridicule have, by various English writers, been thrown upon Americans for the assumption of such titles as *his excellency, the honourable*, &c. to which pleasantry and ridicule this house does not churlishly object, (being fond of a joke, so it be but a good one,) although these titles are not arbitrary, but always indicate some present or former post or charge, and are therefore convenient signs, and not empty names; resolved further, that a joint committee of the several antiquarian societies of America be raised, to examine into the origin of all those patents of nobility, in virtue of which sundry persons, subjects of H. B. majesty, do assume and take to themselves the designation of *his grace, my lord*, and *most noble*; to inquire whether the application of these titles be in any degree connected with personal merits, or trusts conferred on the bearer of them, whether a majority of them may not be traced to the exploits of cruel and barbarous ages, to the pleasure of corrupt or frivolous princes, unhappily regarded as the fountains of honour, to violent and rapacious seizure of estates by military force, and in all but a few instances to pure arbitrary descent, and whether under these premises the persons taking such titles and the people bestowing them can fairly ridicule those few simple designations, applied in some portions of America to those who have been raised by their fellow-citizens to offices or trusts thereby indicated.'

The eighth letter is on 'the character and condition of women.' In the middling classes of life, women as well as men, abating a few peculiarities incident to climate and geographical circumstances, are much the same, all the world over. The human nature, where it is not forced to the high extremes, nor sunken to the low ones, tends to a few simple conditions and habits, which are found almost every where.

But in the highest and lowest ranks of life, the great national differences exist, and in nothing more than in the character and condition of women. The corrupt influence and power, which they acquire, in the higher ranks of most of the countries in the old world, by sacrifices fatal to the true excellence of female character, produce a state of intercourse in those ranks, of which we have happily in this country not even a conception; while the out doors slavery, to which the female peasantry is subject in a greater or less degree, all over Europe, forms a spectacle equally abhorrent to our feelings and habits. Shepherdesses and hay-makers, with their straw hats on one ear, and clean white rakes, make a pretty figure in eclogues, on the stage, or on old fashioned patch furniture counterpanes and bed-curtains, but in real life it is something too much, to see the weaker sex condemned to both parts of the curse; in sorrow to bring forth children, and with the sweat of their face to till the ground. Savage, and barbarous, and over civilized life all tend, in this respect, to the same misery; and in the wretched provinces of Turkey, the rich counties of Germany, Italy, France, and England, and our own squalid Indian villages, the same spectacle of female toil and wretchedness is to be witnessed. We know of no community on earth where the natural destination of women to household and domestic life is so completely fulfilled among the labouring classes, as in our own country. In France, in the season of harvest, you may see the roads covered with reapers, women as well as men, travelling, for a hundred miles, from the more thickly settled districts, up to the wheat provinces, as the poor Irish come over to reap the English fields. The following remarks of our author are perfectly just.

'To begin with the most numerous order,—with those who commence life with nothing but strength to labour for subsistence, and the hope of future competence:—In the country, or the towns, the females in this class are never exposed to work in the open air. All that is required out of doors is performed by the men. That the women are very assiduously, and even laboriously employed, every one may witness,—but their labours are almost wholly domestic, and performed under shelter. They are not seen driving market carts, standing in the streets, carrying heavy burdens, or engaged from morning to night in the open fields. They are not exposed to the inclemency of the weather, to the

promiscuous mingling with the crowds of a city, or in large groupes in the toils of the field. They live secluded in the performance of their household labours, and rarely meet in any assemblage, except when they go in their best attire, with decency and solemnity, to public worship.

'Besides, they have higher hopes than the labouring classes in Europe. The journeyman may look forward with certainty, to become, in a few years, if he has common skill and industry, a master workman in his turn. The farmer is not, as in Europe, a mere peasant, labouring on land which he never dreams of owning; but he is here a proprietor, and though he begins at first with only a log-house, and a piece of forest to be cleared, he is sure that, in the end, he shall possess a productive farm, and the means of comfortable subsistence. The women in these classes, who are often more refined and ambitious than the men, conduct themselves with a view to their future situation, and often stimulate their husbands to those exertions for acquiring property and improving their children, in which they are willing to participate. This prospect of bettering their condition, operates very favourably to them, since it encourages the men to domestic habits and economy, by knowing their savings will all be productive of very compound advantage, and that, as they advance in life, they may look forward to a comfortable support from the results of former labour.' 177, 178.

Having, both in this and the preceding number of our journal, had occasion to express our opinions freely on the subjects of Agriculture and Manufactures and their respective importance to our country, it is unnecessary to dwell much on the letters in which these subjects are treated. With regard to the former, the author gives a preference to the use of oxen over horses, (p. 203) in which we believe the modern theories and most approved practice in agriculture, will not go along with him; though we should have been sorry to have missed his remarks on the subject, had their omission cost us, at the same time, the amusing picture of 'the skilful teamster,' that is introduced to illustrate them.

No person who has explored any portion of our sea-coast, and cast his eye on the thousand broad meadows which are given over, for want of a dike, to everlasting sterility, rendering our rivers near the coast almost inaccessible, and their banks unprofitable, but will join our author, in the following observations.

'There is another description of land, of which very large

tracts are found on every part of the sea-coast, which is a reproach to our agricultural management. I allude to the salt marshes. These are generally composed of a fat, rich soil, often several feet in depth. At present they produce a crop of hay, which is worth only half the price of the upland produce. Attempts have been made in many places to dike out the sea-water; in some few, the most luxuriant crops have followed; in most others, the natural grasses have been destroyed, the land run to waste, and after a few years, the salt water has been again admitted to cover them. Doubtless, the growth they furnish, the depth of soil, and other circumstances, may make some of these lands more difficult to be reclaimed than others. But I doubt whether most of the experiments have been well conducted, and whether they have not failed from being made imperfectly. Though the tide has been kept from overflowing the surface, the water within has been kept too near its level to permit the soil being properly freshened. Thousands and thousands of acres of land in England, that were once overflowed by the tide, have been embanked, and now produce the richest crops. In Flanders and Holland, half the country must have been originally in this situation; and lands now below the level of the tides produce not only the finest hay, but are cultivated with vegetables and grain. Some of the richest lands we have might be made to do the same here, and would afford the richest returns, instead of a sorry crop of salt hay. It is a prominent object in our agriculture, that a full experiment, on a large scale, should be made with these valuable lands, of which we possess such extensive tracts.' pp. 205, 206.

Such an attempt, we understand, is now making near New York, and it is perhaps to be wondered at, that the *diking* spirit of its original settlers had not broken out before. When one beholds the delightful meadows, which are thus rescued from the barren ocean in Holland and turned into an everlasting garden, one is tempted to wish that the Pilgrims had abode a little longer at Amsterdam and Leyden, before they came over to Plymouth; and then brought with them a taste for fresh meadows and embankments. It must be allowed, however, that it would wear rather a Quixotic appearance, to begin to make land on the east of our continent, while we have still to be settled a square of 3000 miles toward the west; nor can it in human fairness be asked of men to stand up to their middles in marsh mud, in order to make a dike, when for the wages of one day's labour in it, they can buy an acre of land, which will yield 50 bushels of wheat.

With all this, we confess we should rejoice to see some measures taken, to enlarge the limits of our Eastern metropolis, and to turn that abomination of desolation, which unites it with the continent, and is given over to salt herbs and the executioner, into a wholesome lawn or public walks or gardens. An expense, which the town would not feel, would be amply sufficient to exclude the tide, and admit of the space on either side in rear of the street being converted into parallel shaded approaches to the town, scarce inferior in beauty to the *champs elysées* at Paris. There are not many ways in which a generation can connect itself with posterity, by more grateful associations, than by these public works. A few acres of land left in common, and a few score elm-trees planted, in the first settlement of Boston, have given our town its greatest ornament, furnished it with the scene of all its festivities, with the place for convenient and wholesome exercise, and essentially increased the solid rational comfort of every class of the citizens, particularly of the poorer class. What has been done by the present generation, still farther to adorn this beautiful spot, will give them a proportionate place in the gratitude of posterity. Long after we, with all our gossipping vanities and intrigues, and insincere public services performed from private interest and ambition, and our gross luxuries in mahogany, rose-wood, and good cheer are passed by, and no memorial is left of our existence, a fine row of trees, which we had planted, would be a more beautiful and precious monument, than all that ever rose in brass or marble. This is generally enough admitted, when thus stated; but in point of practice, we are commonly content to imitate the example of the elder laird of Dumbiedikes, whose dying charge it was to his son: 'Jock, when ye hae naething else to do, ye may be aye sticking in a tree; *it will be growing, Jock, when ye're sleeping.* My father tauld me sae forty years sin', but I ne'er fand time to mind him.'

The twelfth letter treats of *the past, present, and future state of the Indians;* a subject, which involves some questions of casuistry, and some of policy. It is a point sometimes mooted, not indeed by sincere moralists, but by political railers, who seize at any handle of national calumny, what right we or our fathers have or had to dispossess the aboriginal lords of the soil. This is an excellent question for disputation, for many of the arguments are on one side, while most of the truth

is on the other. Nothing seems clearer, in the abstract, than that the original incumbents are the rightful proprietors of the soil; that it is not within the right of foreign intruders, under the pretence that they are civilized, while the incumbents are savage, to expel them from their possessions; nor is such a right, not naturally possessed, to be acquired by such sort of purchases, as are commonly made by civilized colonists of savage owners. In short, half taught casuists are apt to shrug up their shoulders and look wise, when the subject of such purchases is mentioned, and leave to be shrewdly suspected, that the transaction is, after all, no better than a legal or a pious fraud. We are not at leisure to enter into the inquiry, how far the temper and character of our early settlers, or the actual policy of our government toward the natives, may justify this supercilious righteousness of censure. There may have been something suspicious in the tone of feeling of the early colonists, a little too frequent allusion to the invasion of Canaan, and an ominous disposition to return thanks for driving out the heathen. Our early historians exult, with an alarming complacency, over a pestilence, which is said to have raged among the natives a year or two before the landing at Plymouth, and to have covered the country, which first presented itself to our forefathers, with graves. But notwithstanding all these incitements to mild and charitable judgments, it must not be forgotten, that the property which rests in the mere right of possession depends on an extremely vague and indefinite tenure. It can scarcely be understood to extend beyond the limits of one organized civil society, where the established compensations, by which every citizen pays all the rest for protecting him in his possessions, may seem to furnish an equitable ground on which those possessions are held by him. This right of property may even acquire a benevolent extension, beyond the pale of the political organization that immediately protects it, and may be recognized by all similar organizations; that is to say, there is a sort of common bond among all civilized nations, to respect certain pretensions to property over the soil occupied respectively by each other. And yet so extremely feeble is this right of property, as recognized by one nation in another, that two princes have but to affront each other and go to war, and all the stipulations supposed to exist are swept away, and you turn in your troops without scruple upon

the peaceful village of your neighbour. If such is the acknowledged frail foundation of the right in nations, who profess to be in alliance with each other by the bonds of civilization, on what good ground can a savage tribe lay claim to all the land that they can wander over in the chace, and to every forest, in which the deer seeks refuge from their arrows? Who has recognized their property, and what treaty has mankind entered into with them, to give them up fair continents to be so poorly improved? Naturally speaking, all men have a right to live on the earth; and a ship's company of exiles, forced by persecution, or a crowded population, or any other cause, to a barbarous coast, have as good a natural right to land and settle on it, as the native tribes to continue there to hunt and fish. To avoid present inconvenience and war, it is usual and most prudent to attempt to purchase a right of the incumbents, but it is clear, that they have no more natural property in the soil than you. If it be said in answer to this, that a tribe of savages might with equal reason invade a cultivated shore, and claim an equality of right with its civilized inhabitants, arguing that they were their own judges how a region ought to be inhabited, and that they held hunting and fishing to be a more proper mode of existence than tilling and pasturage, we answer, that in the dry, special pleading of the theory, this is true; and they must go to war, and the strongest be the rightful owner; as the barbarous nations did, when they came down from the wall of China, and took possession of the fair shores of the Mediterranean. But in common sense and practice, there is no confusion in this case; nor would any sincere moralist be inclined to put the settlement at Plymouth on the footing of the invasion of Great Britain by a horde of Esquimaux.

What ought to be our conduct, in the present state of things, towards the Indians, is a more important question, because it is one, which will decide our treatment of a large class of fellow men. It is tolerably well ascertained, that they cannot support the neighbourhood of civilization. Foreign and ignorant judges may sneer at this; but it is a simple fact, ascertained by experience. It would not be easy to substantiate a single act of violence, far less any systematically oppressive treatment toward the savages in this state, for instance, since the time when they had thirty churches in the neighbourhood of Boston, and some of them served by ministers of their own

race. And yet those churches, like so many others throughout our country, have vanished, and what is the cause? Simply this, that the Indians have either mingled with the whites, and thus been confounded with the mass, which has happened to so small a degree, as scarce to deserve to be mentioned; or remaining distinct have dwindled away in consequence of necessary checks on their increase, not implying a voluntary oppression on our part. Drunkenness and other vices, of which the aliment has been imparted to them, have thinned their numbers. They lived by hunting and fishing; we have cut down the forests, and killed the deer and the bears, and put to rout the beavers, and have built mill-dams across the rivers, and frightened away the salmon, and come in all hungry to divide the spoil of the shad and alewives. They must always have covered a very large tract with a very small population; and would naturally disappear, long before they had alienated all their lands. To take measures to preserve the Indians is to take measures to preserve so much barbarity, helplessness, and want, to the exclusion of so much industry and thriftiness. No personal injustice should be or is tolerated, but the laws which have for their end to keep up the existence of large bodies of half clad barbarians, who will not or cannot sustain themselves by the arts of civilized life, are laws to prevent comfort and improvement from taking place of misery and want. The object of true humanity is not blindly to better the condition of a given individual, whether he will be bettered or not, but to put a happier individual in the place of a less happy one. If it can be done by changing the nature of the latter, it is well; if it cannot, leave him to the operation of his character and habits; do not resist the order of providence, which is carrying him away, and when he is gone, a civilized man will step into his place, and your end is attained. Had the British government, when our settlements began, placed the whole of America under the administration of commissioners, and retained a right of preemption over all the lands, the United States would have been to this day a great—perhaps not a great—Massapee or Herring-pond parish.

Little, however, as we join the regret which is sometimes expressed at the vanishing of the Indian tribes, we heartily participate the wish that, before they are gone forever, no pains should be spared and no time be lost in collecting their

traditions, describing their manners, and above all preserving specimens of their language; which the late investigations have shown to be a philological phenomenon of the most striking kind. We are sure a great deal might be done in this way, by those who have the means of doing it, with a certain prospect of carrying the public curiosity and interest along with them. If the officers, who in the late war were stationed on the frontiers, and those whose official duty carries them in various civil capacities to the regions still inhabited by the Indian tribes, would but favour the public with their observations, and particularly with vocabularies of words, they would contribute to the only means now existing of tracing the descent of these once mighty nations, and of solving the great problem of the settlement of America. In want of any accurate information of this kind, we are somewhat at the mercy of vague and exaggerated reports, which we know not when or with what abatement to believe. Thus it was currently stated in the late war, that Tecumseh had conceived the plan of a grand confederacy of the Indians against the whites, and travelled from the northern lakes down to the Creeks and Seminoles to bring it into operation. This, for several reasons, seems to us unlikely; the more so, as it is an extremely obvious fabrication. Precisely the same story is told in Weld's travels of the famous Brandt. As far as it is in either case true, it probably is limited to this, that these enterprizing chiefs attempted to organize a confederacy among the neighbouring tribes, to a greater extent and on a more efficient footing than the common alliances. That any thing more than this could be conceived by a savage chief, even with the disinterested aid of white hunters and fur-traders, is from the nature of things scarcely credible.

The following account of the vagrant Indians one sometimes sees is curious.

'It is remarkable, how few of the natives are to be found in our population, and how rarely they blend with it. The discolourings from Indian are infinitely fewer than those arising from Negro mixture. The few that remain are not so numerous as the gipsies in many parts of Europe, to which they may in many points be compared. Two or three, or sometimes a larger groupe, perambulate the country, offering medicinal herbs, or brooms for sale, almost the only article they manufacture. They are a harmless set of beings, and lead a life of hardship, though not of la-

bour. I have sometimes thought, when I have seen some of these poor Indians, on the revolving turns of fate; that here were the descendants perhaps of the Sachems, who once held the country, and made treaties with our ancestors, when they might have annihilated them, gaining a scanty livelihood from the charitable purchases of their posterity. They preserve most of the traits of the Indian character, though imbedded in civilization, and knowing no other language than the English. They are seldom seen to laugh, are prone to intoxication, yet obliged, from poverty, to have intervals of sobriety; and in traversing the country, while they commonly make use of our roads, they retain a knowledge of its natural topography, and are never afraid of being lost in a forest, as they always know their direction, and often traverse the country, as was the primitive practice, from one stream to another, at the shortest carrying place, and still are acquainted with all the rivers and ponds, and the most probable places for finding game.' pp. 237, 238.

A small party of vagrants, of this description, was lately and is perhaps now wandering in our neighbourhood. One might easily have mistaken them for gipsies, but for the shade of copper colour, instead of the dark olive in their complexions. Their party of six or eight consisted of three generations, of whom the two first retained a little acquaintance with their native Indian dialect, which in the third was lost. They did not appear to share the quality, which is said to sit deep in gipsy blood, that of mistaking their neighbour's hen-roost for their own. Whether they would have been able to hold fast their integrity, through the tempting season of June-eating and early Catherine pears, we cannot undertake to say. While they honoured us with their presence, they led a mighty honest life of basket-weaving; and it was no unpleasant sight, in the evening, to see the red flames and the heavy smoke curling up round a comfortable iron pot, which they understood how to keep boiling as well as their neighbours. Neither can they be said to have been devoid of taste; for they took up their abode on about the pleasantest spot which the district contains, and added, by their romantic encampment, a new beauty to Jamaica Pond, of a kind we suppose not wholly to the taste of the neighbouring municipality; who soon approved their descent from the pilgrims, and after a lapse of two or three weeks drave out these heathen without further ceremony.

We quote the following passage from the letter *on scenery and climate*, as a favourable specimen of the style of this work. It is an additional commendation, that there is no exaggeration in the comparative picture it presents of our own and the Ausonian climates.

'In connexion with our climate, the appearance of our atmosphere may be considered; and the lover of picturesque beauty will find this a fruitful source of it. The same inequalities will be found here that take place in the measure of heat and cold, and an equal number of contrasts and varieties. We have many of those days, when a murky vapourishness is diffused through the air, dimming the lustre of the sun, and producing just such tones of light and colour as would be marked in the calendar of Newfoundland or the Hebrides, for a light, fair day. We have again others, in which even the transparency and purity of the tropics, and all the glowing mellow hues of Greece and Naples, are blended together, to shed a hue of paradise on every object. I have already spoken of the intense brilliancy of a winter moonlight, when the air has a polar temperature; the same brilliancy and a greater clearness is often found in the month of June, and sometimes in July, with the warmth of the equator. There *is*, occasionally, in the summer and autumn, such magical effects of light, such a universal tone of brilliant colouring, that the very air seems tinged; and an aspect of such harmonious splendour is thrown over every object, that the attention of the most indifferent is awakened, and the lovers of the beautiful in nature enjoy the most lively delight. These are the kind of tints which even the matchless pencil of Claude vainly endeavoured to imitate. They occur a few times every year, a little before sunset, and under a particular state of the air and position of the clouds. These beautiful appearances are not so frequent indeed here, as they are at Naples; all those warm and delicate colours which we see in Neapolitan pictures, occur there more often; but I have frequently observed the hills to the south of Boston exhibiting, towards sunset, the same exquisite hues which Vesuvius more frequently presents, and which the Neapolitans, in their paintings of it, always adopt. The vivid beauty which I now speak of, is rare and transient; but we often enjoy the charms of a transparent atmosphere, where objects stand in bold relief, and even distant ones will present all their lines and angles, *clean* and sharp, from the deep distant sky, as on the shores of Greece; and we gaze at sunset on gorgeous skies, where all the magnificence, that form and colour can combine, *are* accumulated, to enrapture the eye, and render description hopeless.' pp. 264—266.

As the author has, if we have not overlooked it, made no distinct mention of the Indian summer, so called, of which a pleasing account is contained in Dr. Drake's view of Cincinnati, we cannot forbear to quote the note descriptive of this season from the Rev. Dr. Freeman's occasional sermons; gladly seizing this only opportunity presented us, since the commencement of our critical labours, of paying our feeble testimony to the almost unequalled merit of these admirable discourses, and making ourselves the organ of the literary and religious community, in earnestly expressing the hope, that they are not all with which we shall be favoured and instructed, from the same quarter.

'The southwest is the pleasantest wind, which blows in New England. In the month of October, in particular, after the frosts, which commonly take place at the end of September, it frequently produces two or three weeks of fair weather, in which the air is perfectly transparent, and the clouds, which float in a sky of the purest azure, are adorned with brilliant colours. If at this season a man of an affectionate heart and ardent imagination should visit the tombs of his friends, the southwestern breezes, as they breathe through the glowing trees, would seem to him almost articulate. Though he might not be so wrapt in enthusiasm, as to fancy that the spirits of his ancestors were whispering in his ear; yet he would at least imagine that he heard the small voice of God. This charming season is called the *Indian Summer*, a name which is derived from the natives, who believe that it is caused by a wind, which comes immediately from the court of their great and benevolent god Cautantowwit, or the southwestern god, the god, who is superiour to all other beings, who sends them every blessing which they enjoy, and to whom the souls of their fathers go after their decease.'

Having expressed ourselves fully on the subject of university education, as it exists among us, in our number for January last, we have no occasion to enter into an examination of our author's fourteenth letter, which is on *Harvard University*. We might not, any more than himself, be likely to pass for impartial critics on this point, and have no wish to play the part of champions. There is one hint only of our author's, which we feel desirous to repeat, viz. that the spirit of this university is in no degree proselyting, and that no effort is made to impose on those, who resort to it, or even to recommend to them any particular system of theological doctrines.

All men who think and reason, or who read and hear without thinking, must needs have their own opinions; and it would be ridiculous to wish to have it thought, that there is no prevailing current of opinion at Cambridge. Still it is true, that no pains are taken to draw into this current those, who, at any stage of their education, resort thither, and that many pass through and receive the honours of the university, without having received any doctrinal bias from the atmosphere supposed to prevail. We make these remarks, by no means to conciliate favour to the university. Of that it has no need, and it is quite content with its solid, unasserted claims to public confidence, and quite willing that the young men of our country should go wherever they can receive more thorough instruction, can be helped to form a chaster and purer taste, or be imbued with a more manly spirit. We are not sure that we should even have alluded to the subject at all, if we had not happened to know that pains have been taken, by word of mouth and in writing, to convince the public at a distance, that we partake at Cambridge the proselyting character of some of our sister institutions; the late distinguished head of one of which was wont to say to his pupils, as we have been informed by one of the most respectable of them, 'Unitarianism is the half way house to hell; the traveller stops and rests at it, looks round him, and *goes on his way!*' From judgments and from language like this we abstain. We have even been told that attempts have been made, and not without success, to instil into our distant brethren of the Episcopalian communion, a jealousy of our university. This is the more unpardonable, as express provision is made for permitting all, who ask it, to attend worship in the Episcopal church in Cambridge.

This work closes with two letters on *Boston and the character of its inhabitants.* We have been too liberal already in our extracts, to admit of any more, or to make any more necessary for the purpose of giving our readers an idea of the work. Having, in the beginning of our article, bestowed a hearty and sincere commendation upon it, and particularly complimented the correctness of the style, we must find fault with the latter for being tainted by a few Americanisms, the last thing we wish to see in American language. *Location* and *grade*, our old enemies, are far too useless to be admitted into pages, in general so correct; nor do we see any good

reason for eternally using the word *commence* instead of *begin*. There are two or three Italian scraps, which have each an error, and there are one or two other mistakes, which we also suppose to be errors of the press; such as placing the Passaic falls in Rhode Island, (p. 275.) Is there not moreover an error librarii in the following sentence? 'The town was first called by the whites Tremont or Trimount, from the predominance of three conspicuous hills; afterwards called Boston, *from a clergyman of that name*, much respected by some of the first settlers, and who was expected to become their pastor, but he never came over.'

To conclude, this work, though local in its design and subjects, is enlarged and patriotic in its spirit. We hope it will not be long, before no comparisons between the East, and the South, and the West, shall be made, with less intelligence and forbearance, than those before us. All we want is to know each other better. We have now before us a letter from a gentleman, who crossed the Alleghany mountains, little more than thirty years ago, in which he complains of his 'discoveries' being misrepresented; and which, though he seems to have descended the Ohio no farther than Louisville, appears to have excited, as well it might, the attention due to a voyage far beyond the extreme point of civilization.* He might now pass to the Mississippi and 'discover' nothing on his way but cultivation, wealth, and plenty, fertile fields, and plantations, inhabited by free and intelligent men;

> And hills all rich with blossomed trees,
> And fields which promise corn and wine,
> And scattered cities crowning these.

He would find one of these towns, in its growth of twenty years, a third part as large as Boston, and three others a fifth, though it is neither the habit nor the policy of the inhabitants to settle in large cities. He would find the population of one of these *young* states, greater than that of Massachusetts, and another nearly double. Or, if he travelled on the great watery turnpike of the west, he would descend it, together with an immense amount of produce and population, on its *natural railways*, and meet its thousands of tons of steam navigation returning with the conveniences and luxuries, which this produce had purchased. He would find the Indian

* Memoirs of the American Academy, vol. ii. part 1.

population extinct, and an individual of their nation a spectacle in the streets; and in its place an enlightened society, with the vigour and spirit of youth, and the habits of hardihood and intelligence, which belong to the nature of the enterprise they have just achieved. And lastly, he would see in the spirit of emigration, so universally extended, the means provided by nature to assimilate and unite these spreading bands of citizens into one national character.

ART. VII.—*A Discourse on the Religion of the Indian Tribes of North America; delivered before the New York Historical Society, December* 20, 1819. *By Samuel Farmer Jarvis, D. D. A. A. S.* 8vo, pp. 64. [*With Notes and Illustrations*, pp. 46.] New York, 1820.

THE history and character of the Indian tribes of North America, which have for some time been a subject of no inconsiderable curiosity and interest with the learned of Europe, have not till lately attracted much notice among ourselves. The very circumstance of our living so near to them, that we could at any moment make such inquiries as should be wished on any point relating to them, has, no doubt, contributed much to our neglect of this part of the history of our continent. While Europeans, who from their remoteness cannot, if we may use the expression, without difficulty obtain specimens of this portion of the human race to complete their collections, have long esteemed the American Indian as one of their most curious subjects of investigation. Just as we remember some years ago to have seen among the curiosities of an European museum an article, which would have excited but little interest in an American, though it is in itself not among the least curious productions of nature,—we mean, that common plant of our continent, the *indian corn*. But as the Indian nations are now fast vanishing, and consequently the individuals of them come less frequently under our observation, we, also, as well as our European brethren, are beginning to take a more lively interest than ever, in the study of their character and history.

The immediate impulse has been given at the present time by the important and interesting publications of Mr. Duponceau and Mr. Heckewelder, of which we gave an account in

a former volume.* On that occasion we expressed very fully our opinion of the great value of those works, which we had no doubt would be received by the learned of Europe, particularly the Germans, with the utmost avidity; and we are happy to find by one of our own valuable periodical publications, devoted to the literature of Germany, that the high opinion we had formed of those works is confirmed by the judgment of distinguished literary journals in that country.† While, however, we remark that the immediate impulse has been given to the study of Indian affairs, by the invaluable works abovementioned we are not unmindful of what is due to our own Massachusetts Historical Society, which has for many years past been steadily, though unostentatiously, rendering essential services to this, as well as other parts of the history of America; services, which deserve the greater praise, as the society began its labours at a time when there was so little zeal in literary pursuits of any kind, and so few inducements either of profit or fame to engage in them. This society may justly boast of having taken the lead in the study of American history, and under the inauspicious circumstances which we have just mentioned; and it was in emulation of the 'honourable example of the Massachusetts Society, though without aiming to be rivals' of it, as our brethren of New York have respectfully assured the public, that the foundation was laid, fifteen years ago, for the society, to whom the discourse now before us was addressed.‡

The author of this discourse is the learned and respectable clergyman, who has been invited to take charge of the Episcopal society in Boston, for whose use the new stone church is now building; and, though we judge of him from the present publication alone, and without any personal acquaintance

* North American Review, vol. ix. pp. 155 and 179.

† See the *German Correspondent* of May 23, published in English at New York, under the superintendance of the Rev. Mr. Schæffer, whose learning and talents are well known, and to whom we have already alluded as the editor of the *Deutscher Freund.* The number of this journal, we have here referred to, contains notices of many American publications, with extracts from different reviews of Mr. Duponceau and Mr. Heckewelder's works, published in the Leipsic monthly journal, entitled *Amerika dargestellt durch sich selbst*, (or, America represented by itself,) and the *Allegemeine Literatur Zeitung*, (or, General Literary Intelligencer.) We observe also that a German translation of Mr. Heckewelder's book by Prof. Schultz, of Göttingen, is already announced.

‡ Address of the New York Historical Society to the public, 1805.

with him, we feel no small degree of satisfaction in being able to congratulate our friends in the metropolis upon the acquisition of a divine, whose general learning promises to reflect honour upon our country, and to cooperate with his professional knowledge in promoting just views of the sacred volume which he is ordained to interpret.

The subject of Dr. Jarvis' Discourse, as already appears from the title above quoted, is the Religion of the Indian tribes; but as the investigation of this is intimately connected with the origin of those tribes, the author is naturally led to consider the opinions of several writers on that point also, and to examine briefly the proofs of the affinity of the Indians to the other inhabitants of the globe. He accordingly considers the religion, the manners and customs, and the languages of the Indians, as compared with those of the Eastern continent; and as the languages of different people afford the most satisfactory means of tracing their common origin, Dr. Jarvis has, with a diligence and zeal worthy of the greatest praise, devoted a considerable portion of his notes to the subject of the Indian languages. We shall briefly consider each part of his work by itself.

After noticing the great difficulties attending an inquiry into the religion of the Indians, on account of their extreme reserve on that subject, Dr. Jarvis refutes the unfounded opinion of Volney and many other writers, who have asserted, that the Indians have no religion; and in his notes the author particularly cites Hearne and Colden, the former of whom says in the most decided terms: 'Religion has not yet begun to dawn among the Northern Indians; I never found any of them that had the least idea of futurity.' Colden speaks with more hesitation; observing, that 'they have no kind of public worship, and I am told they have no radical word to express God, but a compound word, signifying the Preserver, Sustainer, or Master of the universe; neither could I ever learn what sentiments they have of a future existence.'

If Hearne had been giving an opinion upon any point that was directly to affect the interests of the Hudson's Bay Company, (for whom, if we rightly remember, he undertook his travels,) such a palpably unfounded statement might, perhaps, be traced to some other cause than simple ignorance of facts; for, unless we are misinformed, much of the colouring, if not

the design, of his publication was, at the time, attributed to a desire of promoting the interests of that company, rather than to the liberal and disinterested intention of adding to our stock of knowledge. Colden, undoubtedly, makes his statement upon the best information he could then obtain from other persons; but he was evidently misinformed; and Dr. Jarvis very properly opposes to the opinions of these writers, the testimony of Charlevoix, Adair, Mackenzie, and Heckewelder, the latter of whom, by an acquaintance with the Indians as their missionary for forty years and a thorough knowledge of that wide spread dialect, the Delaware language, is probably better qualified to give an opinion on this point than any man who has ever written upon the subject. This truly venerable missionary says of them—'Habitual devotion to the Great First Cause and a strong feeling of gratitude for the benefits which he confers, is one of the prominent traits which characterize the mind of the untutored Indian.' —'He believes it to be his duty to adore and worship his Creator and Benefactor,' &c. *Historical Account*, p. 84.

To the testimony here adduced by Dr. Jarvis, might have been added, if he had thought it worth while to swell the list of authorities, several of our New England historians, from the first settlement of the country.

Gookin (in 1674) says—"Some, for their God, adore the sun; others, the moon; some, the earth; others, the fire, and like vanities. Yet, generally, they acknowledge one great supreme doer of good; and him they call Woonand or Mannitt; another, that is, the great doer of evil or mischief; and him they call Mattand, which is the devil, &c."* Roger Williams says—"He that questions whether God made the world, the Indians will teach him. I must acknowledge, I have received in my converse with them many confirmations of those two great points, Heb. xi. 6. viz. 1. That God is. 2. That he is a rewarder of all them that diligently seek him..... If they receive any good in hunting, fishing, harvest, &c. they acknowledge God in it."† To these old accounts we will

* Mass. Hist. Collections, vol. i. p. 154.

† Williams' Key into the Language of America (chap. xxi.) published at London in 1643, and republished in Mass. Histor. Collect. vols. 3 and 5. Williams also, in speaking of their opinions of a future state, observes—that 'at the south-west,' as they say, 'is the Court of their great God Cautantowit; at the south-west are their forefathers soules; to the south-west they goe themselves when they dye.' *Preface to his Key.*

Among the many curious old books, relative to our country, the follow-

only add one of modern date, respecting the Indians on Long Island, in the very state where Colden wrote, which we have taken from a statement of the Rev. Sampson Occum, an Indian convert, whose preaching is still remembered by persons now living. The account was written in the year 1761, and is to be found in the Massachusetts Historical Collections, vol. x. p. 108. 'They imagined,' says the author, 'a great number of gods.....But they had a notion of one great and good God, that was over all the rest of the gods, which they called Cauhluntoowut, which signifies one that is possessed with supreme power.' And as to their notions of a future state, in addition to the intimation above from Roger Williams, the writer last cited, who kept a school and also preached to them for some years, expressly says, that 'they believed the existence of their souls after their bodies were dead. Their souls go to the westward a great way off, where the righteous, or those that behaved themselves well in this world, will exercise themselves in pleasurable singing and dancing forever, in the presence of their Sawwonnuntoh or their western god, from whom they have received their beans and corn, their pumpkins, squashes, and all such things. They suppose the wicked go to the same place or country with the righteous; but they are to be exercised in some hard servile labour, or some perplexing exercise, such as fetching water in a riddle, or making a canoe with a round stone, &c. These were common notions with all Long Island Indians.' But, without multiplying quotations, we may ask, if the Indians in general have not some settled opinions of a Supreme Being, how has it happened that in all the conferences or talks of the white people with them, they have constantly spoken of the Great Spirit, as they denominate the ruler of the universe?

ing deserves to be remembered.—'Phœnomena quædam apocalyptica ad aspectum Novi Orbis configurata; or some few lines towards a description of the New Heaven, as it makes to those who stand upon the New Earth. By Samuel Sewall, A. M. and sometime Fellow of Harvard College at Cambridge, in New England. The second edition. Boston, printed by Bart. Green, 1727, in quarto, pp. 64. To which is annexed a Sermon by Samuel Willard, (originally published in 1700,) Teacher of a Church in Boston, and *Vice President* of Harvard College.' The writer of the Phœnomena seems inclined to the hypothesis that the Indians are descendants of the Israelites; and he adopts, after 'the learned Mr. Nicholas Fuller,' the name of Columbina (not Columbia) for the name of this continent.

Dr. Jarvis next takes notice of an old hypothesis, which formerly was a favourite one with European writers, and which, as our author observes, 'has been revived and brought before the public by a venerable member of this society, [Dr. Boudinot] whose exalted character renders every opinion he may defend a subject of respectful attention;' that is, that the Indians are '*the descendants of the ten tribes of Israel.*' In a note on this part of the discourse, the author gives a very brief account of some of the writers who have embraced this hypothesis, and whose opinions are collected in Charlevoix's work; and he informs us, also, that the excellent dissertation of Professor Vater, which contains a review of all the opinions on this subject, and is undoubtedly the best work extant, is now translating by Mr. Duponceau. Dr. Jarvis himself, without considering all the arguments of these writers at large, proceeds directly to one which, as he observes, after Charlevoix, affords the most unequivocal means of tracing their origin; that is, the languages of the Indians; and this test, as he remarks, 'will be found very fatal to the theory in question.' Besides, as Dr. Jarvis very justly remarks, the three primitive languages of the North American Indians, according to Mr. Heckewelder, are the Iroquois, the Lenapé or Delaware, and the Floridian; and these three 'are so distinct as to have no perceivable affinity.' Now all these, continues our author, 'cannot be derived from the Hebrew; for it is a contradiction in terms to speak of three languages radically different, as derived from a common source. Which then, we may well ask, is to be selected as the posterity of the Israelites; the Iroquois, the Lenapé, or the Southern Indians.' pp. 12, 13. The same difficulties pressed themselves upon our New England ancestors at a period when we could boast of at least as many good Hebrew scholars, in proportion to our population, as we can at this day, and when the Indian dialects of this part of the continent were much more familiarly known to our scholars than they now are. Roger Williams says, 'Others and myselfe have conceived some of their words to hold affinity with the Hebrew;' but afterwards he adds, 'Yet againe I have found a greater affinity of their language with the Greek tongue.' *Preface to his Key.* Hubbard says, though probably speaking more upon the authority of others than from his own examination, 'Doubtless theire conjecture, who fansy them [the Indians] to

be descended from the ten tribes of the Israelites carried captive by Salmaneser and Esarhaddon, hath the least shew of reason of any other, there being noe footsteps to bee observed of their propinquity to them more than to any other tribes of the earth, either as to their language or manners.' *General History of New England*, ch. 6.

Dr. Jarvis, in his Notes, pursues this inquiry into the affinity of the Indian and Hebrew languages at some length. In the course of his notes upon this subject, we are glad to see that he considers the points as a part of the Hebrew language, instead of an unwarrantable addition to it. It is time that this language should be studied like all others, that is, as we find it, and not as we would make it, by stripping its fabric of every appendage which the whims of one student or the indolence of another shall dictate. Dr. Jarvis institutes a comparison between the Hebrew and Indian numerals, the separable and inseparable pronouns, the forms of nouns with the pronouns affixed and suffixed to them, and the conjugation of a verb, *to love*, through all our modes and tenses.

We will here stop to make a remark suggested by Mr. Heckewelder's publication, on the numerals, which are so often made the subject of comparison by travellers and authors; that is, that the numerals 'differ very much in languages derived from the same stock.' From this fact it is obvious, that we should not hastily draw inferences from these alone, respecting the similarity or dissimilarity of the Indian dialects, but should extend our comparison to other classes of words.

At p. 82, Dr. Jarvis subjoins a specimen of the Cherokee language, which belongs to the Floridian family or class, and is essentially different from the other classes of primitive Indian languages. This was communicated to Dr. Jarvis, it appears, by Mr. Duponceau, in the original manuscript of the Rev. Mr. Buthrick, who has for two or three years past been a missionary among the Cherokees. The specimen here given of their language comprises the conjugation of a verb, *tse ne yu ti*, *to take*, through our common division of tenses, an active, passive, and *middle* voice, and a singular, *dual*, and plural number. We should have been glad to have been more particularly informed here, whether what is called a *dual* number by Mr. Buthrick is, strictly speaking, like the dual of the ancient languages confined to

two persons or things, or whether it is what the German missionaries, the Rev. Mr. Dencke among the Chippeways, and the Rev. Mr. Heckewelder, denominate the *particular plural*, that is, a limited plural, embracing an intermediate but not definite number between one individual and all of any class of objects, which the Indians use when they speak of a family or any association or company of persons, in contradistinction to men in general. We are strongly inclined to think, as Mr. Duponceau does in the case of the languages of the Greenlanders, that what is called the dual in the Cherokee will be found to be a limited plural of this kind. If, however, this number is, strictly speaking, a dual and not a limited plural, or middle number, as it might perhaps be denominated, the Cherokee differs from other Indian dialects in one of the most striking peculiarities of that class of languages.

In going through this specimen of the Cherokee, and indeed the other Indian specimens in this work, we have had constant occasion to lament the want of a systematic orthography for all these languages; which would much facilitate the study of any one of them, and would be of still more use in giving us the means of easily comparing the different dialects with each other. In the present instance the marks of long and short quantity, and the accents, are employed to denote modifications of the vowels, but we observe no mark to indicate the accented syllables of the words, nor any key to the pronunciation. Thinking it probable, however, that the Rev. Mr. Buthrick, from whose manuscript this specimen of Cherokee was taken, had been accustomed to the system adopted in the key to Perry's Dictionary, we turned to that work, and upon comparing it with the table in the Cherokee Spelling Book, published by Mr. Buthrick and his associate, Mr. Brown, we found that our conjecture was right.*

* *Tsvlvki Sqclv Clv*; that is, *Tselokee*, or as we write the name, Cherokee Spelling Book, written by D. S. Buthrick and D. Brown. Printed at Knoxville, 1819. The title of this book, if we rightly comprehend the authors' system of orthography, which, however, we are not quite sure of, is to be pronounced *Tsuh-luh-kee Squa-luh-aluh*; the latter part being composed *sqclv*, *spelling*, and *clv*, a *book*. This use of the consonant *c* to denote the vowel *a* in *hate*, seems to us peculiarly objectionable in the orthography adopted in this spelling book: as does also the plan of turning some of the letters upside down; for example, ɐ denotes *a* in *part*; ɔ, the sound of *e* in *met*, &c. But the orthography will undoubted be improved as these languages become more and more the subject of attention with philologists. Mr. Buthrick and his associate deserve much

For the convenience, therefore, of such readers as may wish to examine this specimen of Cherokee, we will just remark, that the ā sounds as in *hate*, â as in *hall*, ē as in *mete*, ī as in *pine*, ĭ as in *pin*, ō as in *prove*, ŭ as in *duck*.

The necessity of some improvement in the mode of writing these languages, may be seen in the following comparative specimen of Cherokee words.

	From Prof. Vater.	From Mr. Buthrick.
Water—	ommah, awwa, ammah.	ɐMv (amúh.)
Father—	chatokta (your.)	e ste ta tu (istitawtuh.)
	aketohta (my.)	c ta tu (etawtu.)
Ear—	cheelane.	kv Lc ni (kuhlêni.)

After giving an example of the mode of conjugating verbs in the Cherokee language, and also in the Delaware, without, however, attempting 'to exhibit a full view of the exuberant richness of their grammatical construction,' Dr. Jarvis comes to this conclusion, 'It will immediately be seen, that a language so remarkably rich in grammatical forms, as to surpass even the Greek, differs *toto coelo* from the Hebrew, one of the simplest of all languages.' p. 87. This extraordinary profusion of grammatical forms in the languages of the Indians, is indeed a most curious and interesting subject of investigation with philologists. Nor is it less a subject of surprise with those persons, who have been accustomed to consider the Indian languages as so poor and barren that they do but just answer the most necessary purposes of life, to be informed of the great number of words which they use to express the same action when applied to different objects. In the Cherokee language, for example, as we learn by a communication from Mr. Buthrick, for which we are indebted to an obliging friend, 'thirteen different verbs are used to express the action of washing, as follows:

Cŭ tŭ wō,	I am washing myself, as in a river.
Cŭ lē stū lā,	" " my head.
Tsē stū lā,	" " another person's head.
Cŭ cŭ squō,	" " my face.
Tsē cŭ squō,	" " another's face.
Tā cà sū lā,	" " my hands.

praise for having accomplished as much as they have, during their short residence with this tribe; whose language too is said to be much more difficult than either the Creek or the Chactaw.

Tā tse yà sū lā,	I am washing	another's	hands.
Ta co sū lā,	"	"	my feet.
Tā tsē yâ sū lā,	"	"	another's feet.
Tā cŭng kē lâ,	"	"	my clothes.
Tā tsē yŭng kē lâ	"	"	another's clothes.
Tā cŭ tē yā,	"	"	dishes, &c.
Tsē yŭ wâ,	"	"	a child.
Cô wē lâ,	"	"	meat.

'This difference of words,' adds Mr. Buthrick, 'prevents the necessity of mentioning the object washed. So also with the verbs *love, take, have, leave, die, weigh,* &c.' Upon reading this part of Mr. Buthrick's communication we had the curiosity to look into father Ralle's MS. Dictionary of the Norridgwock, or Abenaki, language, which we mentioned in our review of the Correspondence of Mr. Duponceau and Mr. Heckewelder ;* and under the French verb *laver*, to wash, we found the following various examples ; in which, it is to be observed, the Indian words are to be pronounced as a Frenchman would sound them :

Nekesebéhadoun	Je le lave, I wash him or it.
Nekeseséghenemen,	[skins, linen, &c.
vel Nekesestaghenemen,	Je lave du peau, linge, &c. I wash
Nekeseséghenan	" v. g. une chemise, I wash [a shirt.
Nekesigoua,	Je (me) lave le visage, I wash *my* face.
Nekesesigouenan,	" à lui, I wash *his* face.
Nekesiretsa,	" les mains, I wash *my* hands.
Nekesiretsenan	" à lui, I wash *his* hands.
Nekesebahadóunar,	" les piés, I wash *my* feet.
Nekesesesiténan,	" à lui, I wash *his* feet.

After such evidence of the copiousness of these languages, what shall we say to the theories of ingenious men, who have represented them as destitute of almost all the powers of the cultivated languages? In the instance from Mr. Buthrick's communication, we see there are no less than thirteen words to denote the same action when applied to different objects. Now in our own, or in the French language, which last we cite as the most familiar of the foreign languages to readers in general, what instance can be produced that can be com-

* Vol. ix. p. 184.

pared with this? In some cases, it is true, we have terms somewhat resembling these Indian verbs; as for example, the verb *to eat* implies taking food that is solid, and the verb *to drink*, that which is liquid; *to walk* signifies to go on foot, and *to ride* is to go on horseback, as the English generally use it, or, to go either on horseback or in a carriage, according to the use of the word in this country. For either of these words we may, in our language, employ a more general term as the verb, and then subjoin the noun which shall designate the kind of food we take or the manner of going from one place to another. But the Indians express modifications or circumstances attending the action spoken of, by single verbs and to a vastly greater extent than we can do. For example, to take an instance from father Ralle's Dictionary again, the word *nepangoud*^{e} *dámen* signifies, I eat only meat; *nebangoui*^{e} *nougoué*, I eat only the fat; *nebangouáttegoué*, I eat only acorns, or mast, &c. Again, I walk in the water is expressed by the word *nepemansoughé*; I walk in a bad road, *nesaagoussé*; I walk or go upon my knees, *nedatsitegouakessé*; I go on all fours, *nepemigonsi*; I walk in the rain, *nekegheranroussé*, &c.

We have dwelt the longer upon this part of Dr. Jarvis' subject, from a desire to draw the attention of our philologists to the curious structure of these languages; being strongly inclined to believe with Mr. Duponceau, that we have yet much to learn upon the subject of universal or philosophical grammar. Will it be asked of what use is it to examine the structure of languages in which there is no literature to compensate us for our labour? If, indeed, our only motive in the study of languages were to repay ourselves by the stores of learning locked up in them, we should be but poorly rewarded for the labour of investigating the Indian dialects; but if we wish to study human speech as a science, just as we do other sciences, by ascertaining all the facts or phenomena, and then proceeding to generalize and class those facts for the purpose of advancing human knowledge; in short, if what is called philosophical grammar is of any use whatever, then it is indispensable to the philologist of comprehensive views, to possess a knowledge of as many facts or phenomena of language as possible; and these neglected dialects of our own continent certainly do offer to the philosophical inquirer some of the most curious and interesting facts of any languages with which we are acquainted.

ART. VIII.—*Trial of Robert M. Goodwin, on an indictment of manslaughter, for killing James Stoughton, Esq. in Broadway, in the city of New York, &c. Taken in short hand by William Sampson, Counsellor at Law.* New York, pp. 195. 1820.

IN that part of criminal law, which may be denominated the penal code, the legislation of this country seems to have reached as near perfection, as the infirmities of human nature and human institutions will allow. The punishment of crimes is at least quite as mild as is consistent with the object of all punishment, and is graduated by a scale as accurate as the nature of the subject will admit. But that part of this law which relates to the definition of the offence, the process, the trial, the rules of evidence, and every thing which precedes the infliction of punishment, may perhaps still be considered as requiring the interference of a prudent reformer to simplify its details, to settle its principles and reduce them to a text, and purify it from many deformities, the growth of a barbarous age. Fortunately for us, the comparatively pure source, from which we have drawn our legal institutions, has transmitted to us none of those glaring abuses in the administration of penal law, which the eloquent pens of Beccaria and Voltaire exposed to the public eye during the last century, and too many of which have never yet been abolished, or have recently been revived on the European continent. That hateful system of torture, of secret trial, and of self-crimination, which rendered even the mind of a Pothier incapable of fulfilling the duties of a criminal judge, in the most enlightened age of French jurisprudence, when it was adorned by this accomplished lawyer, and by a D'Aguesseau and a Montesquieu, has ever been unknown to us and our ancestors. But it does not therefore follow, that this branch of the administration of justice is yet brought to that degree of perfection of which it is susceptible, in respect to the precision of its rules and the certainty of their application.

It is evident that the crime of homicide may involve various degrees of guilt, to which it would be unwise and unjust to apply the same term of reprobation and the same measure of punishment. From the slightest degree of culpable negligence, by which a human being is deprived of that existence which is the gift of his Creator, to the atrocious guilt of the assassin

and the poisoner, there are various shades of criminality, which require the application of different considerations in the judgment that may be formed of them by human tribunals. In all of them however it would seem, such is the infirmity of human judgment, that it must necessarily enter into the very idea and definition of the crime that the *corpus delicti* should not be wanting; that death should ensue the act by which it was intended to be consummated. Yet by the civil law it was the intent and not the event which constituted the essence of the crime. Thus by the Cornelian law *de Sicariis*, made by Sylla himself the greatest of murderers, in order to restrain the excesses produced by the bloody scenes of the civil wars in which he was the chief actor, 'Si quis hominem occiderit,—aut hominis occidendi vel furti cum telo ambulaverit, aut qui hominis necandi causa venenum confecerit,'—in all these cases the offender was punished capitally. This extreme severity was probably necessary to strike terror into the armed bands of robbers and assassins, who prowled over Italy in those ferocious times; but it was subsequently applied so as to confound all distinction between the intent to commit homicide and the actual consummation of the crime. 'Nihil enim interest an quis hominem occiderit, an ejus vitæ attentaverit quamvis non occidat.' So also by the old French law, if a person struck or wounded another, with intent to kill, the offender was punished capitally, in the same manner as if death had ensued. *Domat, Loix Civiles, tom.* ii. *p.* 209. *Denizart, tom.* i. *p.* 585.

The Roman law determined the criminality of an action by the intent and not the event, in those offences only, which were emphatically called *maleficia;* such as treason, assassination, parricide, poisoning, &c. In these cases, where the intent was clearly manifested by some overt act, it drew after it all the consequences of a capital crime, although not consummated by the death of the person against whom it was directed. 'Maleficiis voluntas spectatur, non exitus.' But in all other cases it adopted the safer rule of determining conjointly by the motive and the event of the action. *Bynkershoek, Observ. Jur. Rom.* iii. 10.

This rule of the civil law was once attempted to be applied in the tribunals of our own country, to supply a defect in their jurisdiction. By the act of Congress of 1790, for the punish-

ment of certain crimes against the United States, cognizance was given to certain courts of murder, &c. committed on the high seas, and in foreign ports and harbours. In the case of Mr. Gill, which will be found reported in Dallas' 4th volume of Reports, p. 426, the mortal blow was given in a foreign port on the water, and the person on whom it was inflicted died on shore. Of course, according to the common law definition of the crime, it was not consummated within the limits of the jurisdiction given to the court by the act of Congress. But as this jurisdiction was conferred as a part of the admiralty jurisdiction granted to the federal government by the constitution, and as the proceedings of the admiralty are, in general, regulated by the Civil or Roman law, in the absence of any statutory provision to the contrary, it was insisted by the counsel for the prosecution, that the offence was consummated, according to that law, within the limits of the jurisdiction of the court, as prescribed by the act of Congress. But this position was overruled by Judge Washington, who held that we could not escape from the silence of our own code by invoking that of the Civil law: and we were to look to the common law for the definition of the crime of murder, when made punishable, *eo nomine*, in an act of the legislature: not but that Congress had competent authority to provide for such a case; because having power to define and punish felonies committed on the high seas, they might declare that a mortal stroke given on the seas, of which the party died elsewhere, should be a capital felony. But that they had not in fact made provision for such a case.

It is stated in Mr. Christian's Notes to Blackstone's Commentaries, that the distinction of manslaughter from murder is not recognized by the Civil law. 'In the Civil law and the law of Scotland, the distinction doth not exist; and persons tried at the Admiralty Sessions, where the judges proceed according to the rules of the Civil law, must either be convicted of murder, or acquitted.' As to the law of Scotland, it is true that by a modern statute, the distinction is taken away. But it is equally true that by the old law of Scotland, which is principally derived from the Civil law, it was clearly laid down. 'The distinction,' says Erskine, 'which obtained in our ancient law, between slaughter premeditated, or upon *forethought felony*, and that which was committed on a *suddenty*, or *chaud mella*, indulging to the last the privilege of

girth and sanctuary, was taken off by 1661, c. 22, (copied often 1649, c. 19,) which supposes homicide to be a capital crime without any such distinction.' *Erskine's Institutes of the Law of Scotland, lib.* 4. *t.* iv. *s.* 19. And as to the practice of the Admiralty, Sir Leoline Jenkins, in his charge to the jury at the Admiralty Sessions at the Old Bailey, in 1668, lays down the law of homicide with the usual distinctions of murder and manslaughter, not even intimating that there was any difference in this respect between the common law of England and the Civil law, as administered in the Court of Admiralty. *Sir L. Jenkins' Works, vol.* i. *p.* xciii. The only express text of the Pandects on this subject: '*Leniendam pœnam ejus qui in rixâ causa magis quàm voluntate homicidium admisit.*' *Dig. lib.* 48, *t.* viii. *s.* 1. Dr. Brown understands as indicating a distinction similar to that known to our law. *Brown's Civ. and Adm. Law, vol.* i. *p.* 422. But this may posssibly be supposed to exclude the idea of an intention to kill, since the case put by Marianus is not of the use of a deadly weapon, but of an ordinary implement, '*clavis aut cucuma*;' and Huberus informs us that in the practice of his country, which professed to be founded upon the Roman law, homicide committed in a sudden affray, with a deadly weapon, was punished capitally in the same manner with premeditated murder. And he says that those who contended for a contrary interpretation were compelled to resort to a new reading different from that of the Florentine MS. substituting for the words: 'Sed si clavi percussit aut cucuma in rixa, quamvis ferro percusserit, leniendam pœnam ejus,' &c. these, 'Sed si clavi percusserit aut cucuma, aut ferro in rixa, quamvis percusserit:' thus extending the mitigation of the offence, when committed in a sudden affray, to cases where it was committed with a deadly weapon. But Huberus remarks upon this bold attempt: 'Sed maneat laus ingenii, salva ratione et auctoritate juris: quæ hoc loco plane dictat, τὸ ἀκίνητον ἄμεινον, nihil esse causæ turbandi limpidam.' *Huberus, Prælaeciones, tom.* iii. *pp.* 1533, 1534. The old French law, which it is well known was built mainly upon the Roman law in criminal matters, (and in the *pays du droit écrit*, entirely, as to civil cases also,) mitigated the offence of homicide, wherever it was committed under those circumstances in which our law would consider it as manslaughter, if it was attended with these favourable cir-

cumstances, viz. if he who killed was first attacked; if he did not use deadly weapons; and if he did not strike, or attempt to strike at those parts of the body where wounds are mortal. *Domat, Loix Civiles, tom.* ii. *p.* 209. And the new penal code of France, although it does not in terms speak of any intermediate shade of offence between murder, which it defines to be homicide voluntarily committed, and justifiable or excusable homicide; merely designating the more odious species of murder by the terms *assassinat, parricide, infanticide, empoisonnement,* &c. yet as it punishes only these last with death, and every other case of voluntary homicide, with imprisonment, and hard labour for life, except 'lorsqu'il aura précédé, accompagné ou suivi un autre crime ou délit.' under which circumstances it is capital; this code may be considered as substantially analogous to our own law, and to what may be considered as the concurrent voice of reason and the common consent of nations in almost every age, which have thought some allowance was due to the infirmity of human passions in this respect. *Code Penal, l.* 3, *t.* ii. *c.* 1, *s.* 1. 'Quant au meurtre dénué de toute espéce de circonstances aggravantes, il sera puni de la peine qui suit immédiatement celle de mort, c'est-à-dire de la peine des travaux forcés à perpétuité. Dès que ce crime n'est point le résultat d'un dessein formé avant l'action, dès qu'il ne présente aucun des caractères dont nous avons parlé, il est sans contredit moins grave que l'assassinat, et dès lors ne doit pas emporter la même peine; autrement cette juste proportion qu'on ne saurait observer avec trop de soin entre les délits et les peines, et cette gradation qui en est la suite nécessaire, ne subsisteraient pas.' *Exposé des Motifs du Code Penal.*

In other respects, the civil law contains similar provisions with our own as to excusable and justifiable homicide. Thus it is excusable by both codes when committed in self defence; but under what circumstances depends upon a vast variety of considerations. The casuists, among the Jesuits, relaxed this principle so far as to excuse, or rather to justify, homicide committed in defence of one's honour, or good name, or of the minutest article of property, or against the most trifling personal injury. Their abominable maxims are exposed with admirable ability by Pascal in his *Lettres Provinciales,* the fourteenth number of which D'Aguesseau compares for

eloquence with the Phillipics of Demosthenes and Cicero.* 'Ecoutons donc le langage de votre Ecole, et demandons à vos Auteurs: Quand on nous donne un soufflet, doit-on l'endurer plutôt que de tuer celui qui le veut donner; ou bien, est-il permis de tuer pour éviter cet affront? *Il est permis*, disent Lessius, Molina, Escobar, Reginaldus, Filiutius, Baldelius, et autres Jésuites, *de tuer celui qui nous veut donner un soufflet.* Est-ce-la le langage de Jesus-Christ? Repondez nous encore. Seroit-on sans honneur en souffrant un soufflet, sans tuer celui qui l'a donné? *N'est il pas veritable*, dit Escobar, *que tandis, qu'un homme laisse vivre celui qui lui a donné un soufflet, il demeure sans honneur?* Oui, mes peres, *sans cet honneur* que le diable a transmit de son esprit superbe en celui de ses superbes enfants. C'est cet honneur qui a toujours été l'idole des hommes possédés par l'esprit du monde. C'est pour se conserver cette gloire, dont le démon est le veritable distributeur, qu'ils lui sacrifient leur vie par la fureur des duels à laquelle ils s'abandonnent, leur honneur, par l'ignominie des supplices auxquels ils s'exposent, et leur salut,' etc. *Lettres Provinciales, No.* 14.

But we must advert to the work before us. It contains a most laborious, faithful, and instructive account of a very interesting criminal case. It is not a mere popular narrative intended to gratify the vulgar love of the marvellous and the horrid; but is such a report of a celebrated cause as will satisfy professional readers, whilst it gratifies the natural curiosity of the public respecting such transactions. All the procedure is minutely detailed, and we are informed that the speeches of the counsel are taken down with verbal accuracy, which indeed we might presume would be the fact, from the known reputation of Mr. Sampson as a short-hand writer and his experience in criminal law. It appears to us that this species of literary labour is rather undervalued. We do not mean that the exertions of the learned reporters, who record the debates and decisions on matters of law in the supreme courts of justice, are not adequately appreciated, but that too low an estimate is apt to be formed of the qualifications necessary to give a faithful narrative of the more

* 'La quatorzieme Lettre sur tout est un chef-d'œuvre d'Eloquence qui peut le disputer à tout ce que l'Antiquité a le plus admiré, et je doute que les Phillipiques de Démosthène et de Cicéron offrent rien de plus fort et de plus parfait.' *Œuvres de D'Agueseau*, tom. i. p. 407.

dramatic incidents which occur in an interesting trial before a jury. It requires considerable technical knowledge to execute this task with ability. Such works too are always useful, and often more instructive than general history; and sometimes rival the most ingenious fictions, in the interest and animation of their details. They illustrate the history and manners of the age more clearly than many works of greater pretention. The subjects of some of the best novels have been taken from the *Causes Celébres;* and who is there ever so little versed in Scotch law that does not read with lively interest the accounts of those state trials, from which the greatest novellist of the present day has worked up some of his finest narratives?

In the present case, which was a trial for manslaughter in killing a counsellor at law in a public street of the city of New York, in December last, during an affray between him and the prisoner, which originated in a quarrel between them, on account of some proceedings in a law suit commenced by the counsellor against the prisoner; some of the most important legal questions which can arise in a case of homicide were discussed by the court and bar, with great learning, eloquence, and ability. The result was that the jury, not having agreed on a verdict, was discharged; and the question is now pending before the Supreme Court of New York, whether the individual can be again put on his trial for the same offence. A preliminary point was first debated, whether the prisoner was entitled to be bailed or not; which was decided against the application by Mr. Colden, the Mayor of the city of New York, and afterwards determined favourbly by Mr. Chief Justice Spencer. The former application was made previous to the trial, the latter after the jury had been discharged, and the case continued to another term of the court. As the opinions delivered by the two judges upon this occasion appear to us to afford a favourable specimen of judicial talents and learning, we take the liberty of making the following extracts.

'It seems to be admitted,' says the Mayor, 'that where a person is charged with any felony above the degree of petit larceny, as to which there is a statutory provision, he cannot demand bail as a course, and that the court or magistrates, having the power, are to bail him or not at their discretion.

'Legal discretion never means, either in criminal or civil law, arbitrary will.

'Legal discretion is always to be governed or directed by known and established rules, and in truth cannot be otherwise applied than to decide whether facts bring the case within the operation of such rules.

'The well established rule of law applicable in this case is, that a person fully and explictly charged with a felony cannot be bailed, unless there be something presented in opposition to the charge which may raise a presumption in favour of his innocence; or at least it must appear indifferent to the court or magistrate called on to bail him, whether he be guilty or not.

'It is unnecessary to recapitulate the authorities which have been cited to this effect. It has been the law of England and of this country since the time of the statutes of Edward the First. No case has been cited to the contrary. And I never knew of any practice of this court, or any other, that violated a rule, the strict observance of which appears to me to be absolutely necessary to a due and impartial administration of law; of that administration which shall put the poor and the rich on an equal footing in a court of justice.

'This rule is not disputed by the counsel for the prisoner: they contend, however, that the maxim of law that every man is to be presumed innocent till he be found guilty, applies to this case at this time. But it is obvious that this argument would lead us too far—for if it would now apply, it would at all times reach every case. And if it is always to be adopted, then it would follow that in every case the accused must be let to bail. The truth is, that this just and benign principle is not applicable, except when the accused is on his trial: for the purposes of securing his person to answer to a direct and positive charge, made in due form, and to bring him to that trial, we are bound to treat him as if he were guilty: at least we must do so until some matter be presented in his favour, which in the exercise of our discretion we shall judge a presumption of his innocence.

'In this case nothing of that nature is offered. The prisoner is not only committed on a charge of felony fully and explicitly expressed in the warrant of commitment, but he stands charged with a felony of manslaughter, by the indictment on the files of this court.

'It appears to me in vain to say that the public prosecutor is to produce further evidence of the guilt of the accused, than the commitment or indictment, since the law says that he must raise a presumption in favour of his own innocence. It can only mean

that he must destroy the presumptions which must necessarily arise against him from these accusatory documents.

'In some instances indeed the magistrate or court may look into the testimony on which the accusation is founded; and if it affords the presumption in favour of the prisoner's innocence, he may be bailed.

'A second ground however of this application is, that the trial of the prisoner on the indictment for manslaughter has been so long delayed that he is entitled to be bailed, if not discharged.' &c.

Mr. Chief Justice Spencer says,

'Manslaughter is a felony, and it is punishable, on conviction, by imprisonment in the state prison for a term not less than three years, nor more than fourteen years. And it has been argued, that it being a felony thus punishable, it is a case in which the party accused ought not to be bailed, unless it be shown that there is a strong presumption of innocence. I am satisfied that the prisoner cannot demand it as a matter of right, to be admitted to bail, and that it is a question resting in the sound legal discretion of the judge awarding the writ.

'*Hawkins*, b. 2d, ch. 15. § 40 and 80, lays down the law to be, that if it stands indifferent whether a person charged with a felony is guilty or not, he ought to be bailed; and that even in capital cases, where there is any circumstance to induce the court to suppose he may be innocent, they will bail—and that the judges will in general exercise the power of bailing in favour of a prisoner in every case not capital, though they will not exercise it when the prisoner is notoriously guilty, by his own confession or otherwise, without the existence of some special causes to induce it.

'There are several cases in which persons charged with manslaughter have been bailed, where there has been no presumption of innocence. Thus in *Rex* v. *Dalton*, (2 *Str.* 911) the defendant was committed on a coroner's inquest for manslaughter, and was brought before Lord Raymond, chief justice, on *habeas corpus*, at his chambers. He held that if the depositions show that the offence was murder, he would not bail; but if it amounted only to manslaughter, he would bail; and he bailed the prisoner. So also in *Rex* v. *Magrath*, 2 *Str.* 1242, the defendant was committed for manslaughter, and it appearing to be no more, upon the depositions taken before the coroner, the Court of King's Bench admitted him to bail. In Lord *Mohun's* case, which was before Lord *Holt*, at Chambers, (1 *Salk.* 104) he held, that if a man be found guilty of murder by the coroner's inquest, he is sometimes bailed, because the coroner proceeds upon depositions taken in writing,

which may be looked into; otherwise, if a man be found guilty of murder by a grand jury, then the court cannot take notice of their evidence, which they are bound to conceal; and it appears by the cases before cited from *Strange*, that Lord Mohun was bailed first by *Holt*, and afterwards by the *Lords*, after an indictment for murder.

'In some later cases, bail has been refused when the offence was a felony, punishable with transportation; as in 2d *D.* & *E.* 77, and 3d *East*, 157, and there is therefore no fixed or certain rule in cases of felony, each particular case depending on its peculiar circumstances. The object and end of imprisonment before trial and conviction, is to secure the forthcoming of a person charged with the commission of a crime; and it is never intended as any part of the punishment; for until the guilt of the party be legally ascertained, there is no ground for punishment, and it would be cruel and unjust to inflict it. The laws of every free government estimate personal liberty as of the most sacred character, and it ought not to be violated or abridged before trial; but in cases where there are strong presumptions of guilt, and although the nature and kind of punishment which awaits those whose guilt is legally established, does not alter the turpitude of the offence, it must enter into the consideration of the question of bail; for if the punishment would be a pecuniary infliction, then bail in more than the amount of the probable fine, answers every purpose: if the punishment be death or corporal imprisonment, a consciousness of guilt would probably induce to flight, and an evasion of the punishment; and in admitting to bail, therefore, regard must be had to the probable guilt of the party, and the nature of the punishment denounced.

'It appears to me, that from the facts before me, the conclusion is inevitable, that it is quite doubtful whether the prisoner is guilty; and I think it stands indifferent whether he is so or not. After a long and laborious trial, the jury have not been able to agree, and what proportion of them were for convicting, and what for acquitting, has not been shown. No inference can be drawn from the fact that the foreman pronounced a verdict which was dissented from by the third juror, that all the other jurors were for convicting the prisoner; and it may well be that a bare majority of the jury agreed to the verdict as announced by the foreman; and I perceive that all the jurors viewed the case as of a mitigated character, by their recommendation of the prisoner to mercy. I must presume that the jurors were impartial, and that their final disagreement proceeded from a conscientious difference in opinion as to the prisoner's guilt; and I am therefore bound to conclude, that the prisoner may be innocent of the offence. In

such a case, as I understand the law, he is entitled to be bailed, if he can give it in an amount, and by persons of sufficient ability, affording a reasonable expectation, from the impending forfeiture of the recognizance, that he will appear and stand trial.'

We had intended to examine the legal doctrines discussed in the course of the trial, because it appears to us that there is, in general, a prevailing tendency in this country to relax the wholesome principles of the law of homicide, and to give too much indulgence to the licentiousness of human passions. Our law, when soundly interpreted, is sufficiently mild in this respect. Nor was it the fault of the court, if it was not duly executed in the present instance; for it seems to us that the principles of law laid down in the charge to the jury as applicable to manslaughter in general are perfectly correct, and such as the peace of society requires should be asserted and enforced in the administration of justice. How far they ought to have contributed to the conviction of the prisoner in the present case we pretend not to judge; but the legal doctrines expounded by the court are the only doctrines on the subject which can be reconciled with the law of nature, or with what is, or ought to be, the municipal code. We forbear, however, for the present, from any further discussion of the subject.

ART. IX.—*Notices sur le caractère et les écrits de Madame la Baronne de Staël Holstein, par Madame Necker.* Paris, 8vo. 1819.

IT is difficult to appreciate fairly an author or a book that has been much praised. With most readers public opinion is omnipotent; they are sure to admire whatever book is in fashion, not only because it is troublesome to reflect and form an opinion for oneself, but because the popularity of a work actually makes it of more value, as it adds to its power of arresting their attention. A book, which every one is reading and admiring, for that very reason excites more hope and expectation, and is read with more interest and pleasure, than one which wants this adventitious aid. Another class of readers; they whose opinion is uttered less loudly, but is sure in the end to be heard more distinctly, and is spread wider and lives longer; they whom much learning has made

captious and hypercritical, who have bartered for knowledge and fame, the power of receiving pleasure from sources which supply it abundantly to less cultivated and less fastidious tastes, are apt to run into the opposite extreme and deny the degree of praise justly due. Thus has it been with the reputation of Madame de Staël. Few books in modern times, which were not practical, nor scientific, nor directly subservient to the comforts of man and the purposes of society, have been read so eagerly and universally, and known so far as hers. And now whenever they are spoken of by any but professed critics, or those who would be so, it is generally with extravagant and indiscriminate praise. There are, in fact, many readers in our country that read a good many books, whose literary range offers them few or none better than Madame de Staël's; and it is natural that those of this class, which we hope are nearly all of them, who have morality enough to hate the vice, and good taste enough to be disgusted with the superhuman absurdities of lady Morgan's Wild Irish Boys and Girls, and the numerous heroes and heroines of a similar construction, should admire and praise works which, like the more popular writings of Madame de Staël, amuse and seem to instruct, and yet do not call upon them for any very vigorous effort of attention or reasoning. On the other hand, the degree of commendation which she indeed merits, is apt to be withheld by thinking and studious men, who as a novelist, disregard her, and if they read her as a philosopher, do it from a motive of curiosity, wishing to see what sort of a philosopher a woman makes.

Her sex increases the difficulty of judging her aright as an author. If we would estimate fairly the strength and character of her mind, we must forget that she was a woman, and the greatest woman whom this age has seen; certainly the greatest who has written and lived for the public. This we admit would not be treating her fairly, if the question were, not what sort of mind she had, but how much energy of character, and loftiness of ambition, and strength of will she has displayed; for we should then remember, that she was one of a sex whose minds are trammelled and attenuated by the customs of society, just as their bodies are apt to be by fashion; whom the institutions of social life exclude from intellectual pursuits, lest they should sometimes presume to walk there by the side of their lords, and so collision and

strife ensue between man and his helpmeet; a sex from whom little mental effort is expected, and by whom *therefore* little is apt to be made.

But it is time to come more directly to Madame de Staël. We wish to give our readers as fair an estimate as we can of the strength and character of her mind, and a brief history of the principal events of her life. We shall most easily achieve both purposes, by an account of her books, taking them in the order in which they were published; for upon them must rest her pretensions to intellectual pre-eminence, and their appearance formed the most important epochas of her life.

She was born at Paris, 1766. Her father, M. Necker, was unquestionably a man of more than ordinary powers, but their extent was exceedingly disproportionate to his influence in France, and upon the world. Of humble birth, a protestant and a foreigner, he overcame the obstacles which his religion and his country interposed between him and the loftiest station to which a French subject could aspire. He became the prime minister of Louis XVI. and the effective ruler of the French monarchy; but he was wholly unable to wield the power which he had acquired, and his incapacity and ignorance did more perhaps than any other single cause to hasten the revolution.

Madame Necker, in point of talent a very ordinary woman, was ambitious of literary fame both for her daughter and herself. She published some books and pamphlets, which were little read then and are wholly forgotten now; but it shows some intellectual resource, that she was able to make her house the common and favourite resort of the most celebrated men of the day. Diderot, Thomas, Marmontel, St. Lambert, Buffon, and Grimm visited her upon terms of familiar intimacy, and it was in unrestrained intercourse with such minds, that the vigorous intellect of her daughter grew up into its full and perfect stature. Their conversation enriched and strengthened her mind, their fame stimulated her ambition, and their encouragement gave her confidence and self-reliance. If we may believe the accounts which the friends of Madame de Staël give of her early life, she passed at once from infancy to youth; she seems never to have been a child. We will give our readers an extract from a sketch of her early life, written by Madame Rillier, then Madame

Huber, her intimate friend in youth and through life. At the period, to which the passage we quote refers, Madame de Staël was eleven years old. ' We entered the drawing room ; by the side of M. Necker's chair was a little wooden stool, on which his daughter seated herself. Scarcely had she taken her place, when three or four old persons came to her, and addressed her with affectionate tenderness. One of them, who had on a little bob-wig, took her hands in his, and held them a long time, conversing with her as if she had been five and twenty. This was the Abbé Raynal. The others were Thomas, and Marmontel, the Marquis of Pesay, and Baron Von Grimm. When we sat down to table, you should have seen how attentive she was. She uttered not a word, yet she seemed as if speaking in her turn, so eloquent was the expression of her flexible features. After dinner a great deal of company came in. Every one on coming up to M. Necker had something to say to his daughter, either complimenting or joking her. She answered all with ease or elegance ; they took pleasure in attacking her, embarrassing her, and exciting in her that imagination, which already appeared so brilliant. The men most distinguished for their talents were those who were most eager to make her talk. They asked an account of what she was reading, pointed out fresh subjects to her, and gave her a taste for study, by conversing with her on what she had learned. At fifteen she made extracts from the Spirit of Laws, with remarks, and the Abbé Raynal wished her to write something on the revocation of the edict of Nantes for his great work.'

It was in 1789, in the second ministerial reign of her father, which soon ended in a second exile, that Madame de Staël began her literary career, with publishing her letters upon Rousseau. She of course defends him, and with ability and eloquence, but in a different way, and upon different grounds, from those she would have chosen in maturer age. Her work is principally curious, as it proves that at this early age she had discovered, or believed, that happiness is not at all commensurate with success in life. The letters abound with such passages as the following : ' C'est en vain qu'après avoir tout connu, tout senti, tout eprouvé, il [Rousseau] s'ecrie, " N'allez pas plus avant, je reviens, et je n'ai rien vu qui valût la peine du voyage."..... C'est peut-etre aux dépens du bonheur qu'on obtient ces succès extraordinaires dus à des talens

sublimes. La Nature, epuisée par ces superbes dons, refuse souvent aux grands hommes, les qualités qui peuvent rendre heureux. Qu'il est cruel de leur accorder avec tant de peine, de leur envier avec tant de fureur cette gloire, seule jouissance qu'il soit peut-être en leur pouvoir de gouter.'

We have called this book the first fruits of a genius, which afterwards bore so luxuriantly; but she had previously printed an essay on fictions, and one or two other small works, which were little noticed. These letters, on the contrary, drew upon her a great deal of attention, and subjected her to more animadversion and ridicule, than she was inclined to bear patiently. She was told very directly, that it did not become one of the fairer and weaker sex to be quite so philosophical and metaphysical, as she at least tried to be. Accordingly, to a subsequent edition of the book she prefixed a preface, in which she defends zealously, and with a good deal of success, the intellectual rights of women. Our limits do not allow us to consider this question, a circumstance by which our readers are saved a discussion, which might weary, and a conclusion which would perhaps startle them. The expediency of cultivating the intellect of man is pretty well settled at the present day, and it seems difficult to imagine why that of woman should be neglected. If it have similar powers and equal strength, it is as deserving of care, and will repay care as well; if it be weaker and narrower, it needs the more to be strengthened, enlarged, and disciplined. If the purposes of society and of life would be promoted by the establishment of domestic slavery, then every spark of intellectual light in the female Helot should be carefully extinguished; just as birds in a cage are blinded, that they may not look upon the forests and fields, the blue heavens and the green earth, and long to be abroad upon the air, till melancholy should stop their song. But religion and policy alike revolt at this. Man's best happiness, like charity, begins at home, and, like that, is apt to stay there; and home is sure to be just what the wife may make it. Now if it were true that a woman, who can do any thing besides making a pudding or mending a stocking, does these necessary things less willingly and well, than one who can do nothing else; if it were true, as certainly it is not, that a wife submits to conjugal authority, just in proportion as she is ignorant and uncultivated, how can the great purpose of marriage, the mutual and reciprocal improvement of

the moral and intellectual natures of the sexes, be promoted by an union upon such unequal terms; and what must we think of a husband 'assez orgueilleusement modeste,' to wish from his wife an unquestioning obedience, instead of a sympathy of thought, and taste, and feeling? It is sometimes urged that, if a woman's mind be much enlarged, and her taste refined, she is apt to think differently of the duties of life, to require different pleasures from the rest of her sex; that her feelings leave the channels which the institutions of society have marked for them, and run riot, and bring her usefulness and happiness into danger. Now the plain answer to this is, that these evils happen, not because her reason was cultivated, but because it was not cultivated well; and because the taste and intellect of women generally do not receive due culture. We cannot resist the temptation to close these remarks by quoting, for the edification of our fair readers, the following passage from the preface, of which we spoke.

'Un homme à Paris se baissait toujours, en passant sous la porte St. Denis, bien qu'elle fût haute de cent pieds; il en est de meme des femmes qui se vantent de craindre la celebrité, sans avoir jamais eu les talens necessaires pour l'acquerir. Ces talens ont sans doute leurs inconveniens, comme toutes les plus belles choses du monde; mais ces inconveniens memes me semblent preferable aux langeurs d'une esprit borné, qui tantot denigre ce qu'il ne peut atteindre, ou bien affecte ce qu'il ne sauroit sentir. Enfin en ne considerant que nos rapports avec nous memes, une plus grande intensité de vie est toujours une augmentation de bonheur: la douleur, il est vrai, entre plus avant dans les ames d'une certaine energie; mais à tout prendre, il n'est personne, qui ne doive remercier Dieu, de lui avoir donné une faculté de plus.'

In 1796 Madame de Staël published an essay on the influence of the passions upon happiness. This work was well received, and extended the reputation of its author, not only in France, but in England and Germany. It is full of ingenious and sometimes profound remark, and its style has much of the strength and elegance, and still more of the obscurity, which characterize her later works. It is however but little read now, having been in a manner superseded by her book upon the influence of literature on society. The subjects of the two works seem very distinct; she however borrowed in the last very largely from the first, and made it a much

greater book, both in its size and character; and upon it must rest principally her pretensions to fame as a philosopher and reasoner. It would indeed be an arduous task,—too much so, one would think, for any woman to undertake or for any man to execute,—to consider in detail all the literatures, which have existed in the world; and to consider them not only in themselves, but in their relations and bearing upon society, in their influence upon the religious, moral, and political prosperity of the nations among which they originated and dwelt. Yet in this attempt she succeeded; for it was one in which any thing short of absolute failure must be considered success. If we except the terrible mistake of speaking of Ossian and Homer in the same chapter, of taking it for granted, that the one was the first in time, if not in excellence, of the northern school of poetry, as the other was of the southern; and thus confounding an antiquity of thirty-five years with one of as many centuries; if we except this—and it is a mistake, into which she has fallen in common with almost all the continental critics, and from which we ought, therefore, to derive a lesson of distrust of all foreign criticism, at home or abroad—her views are generally ingenious and correct.

The system of perfectibility is a great favourite with Madame de Staël, and although she does not argue directly for it in this work, yet all the principles and reasoning in it refer to the gradual but sure and ceaseless amelioration of human nature, and in Talleyrand's Report on public instruction, made to the National Assembly, of which she wrote several parts, she has put the argument in a more logical form, and made it the basis of the whole system developed in that curious document. Never has the doctrine of the perfectibility of human nature found so able and eloquent an advocate as in Madame de Staël; and heartily sorry are we, that it happens to be so directly opposed to all right reason and tolerably fair argument, that even her eloquence cannot give us the consolation of believing it. There are moments when we remember how much good christianity has done and is doing for man, when we think of the power and effect of the social institutions of modern times, in repressing the morbid energy of the passions, and in making the selfish man perceive that the best way to do himself good is to do others good; and still more when we reflect, that reason and religion have at last taught man to place woman by his side and in his heart,

and have thus rescued from the captivity of disregarded, and what is worse, conscious and contented inferiority, one half of the world, and refined and exalted the happiness of the other half; that these recollections almost bring with them a belief that the world is really better than it used to be, and that there is now-a-days more virtue, more wisdom, and more happiness, than was to be found here in the days of our fathers. But to say nothing of the evil that has come with all this good, nothing of the fact that society represses and controls the passions of bad men only by its power of assimilation, the direct tendency of which is to destroy all high individuality of character, alike the good and the bad, and thus to crush many a wholesome plant, together with the weeds that spring up about it; that if in some arts and sciences we have advanced far beyond the ages that have gone by, in others we are far behind them; while, even in those in which we think ourselves most superior, we seem sometimes but to have recovered what ages passed away and forgotten once possessed and lost; so that the spirit of modern curiosity and research, as it clears away the rubbish, which time has heaped over the remains of antiquity, discovers every day new traces of the art and science, that built the pyramids and temples of Egypt and India, and watched from their summits the hosts of heaven: not to dwell upon these facts, nor yet upon the mighty catastrophes of human institutions, which some ages have witnessed, we would remark that we make an inference rather disproportioned to our premises, when we raise a system, which embraces all futurity and the whole earth, upon an experiment which has been going on but a few centuries, and in a part of civilized Europe. Africa is still a desert, where the savage yet exposes his child and sells his captive. In Asia, in the vast and populous empires of India and China, humanity, advanced half way from barbarity to civilization, has stopped and stagnates; and in America, the surplus superstition and cruelty of Europe has found refuge in its southern half; and upon the eastern border of the northern continent an experiment is making, which may teach our children's children, whether man may by possibility be good and happy for any length of time upon earth, or must, by the inevitable necessity of his nature, abuse and forfeit every blessing and advantage, which God can grant.

To the works we have mentioned succeeded, after an inter-

val of some years, the reflections upon suicide. This book was written by Madame de Staël, we believe, as a recantation of some opinions respecting suicide, incidently expressed in her work upon the passions. She then seemed to consider it as a victory of strength of mind and will over the weakness of our nature, which bids us hope when there is no hope, and shrink with horror from a change, which must be cessation from one kind of misery, and may be rest from all. This was very weak, and in process of time she discovered it to be so; and expresses her change of opinion in the following curious manner: 'J'ai loué l'acte du suicide, dans mon ouvrage sur l'influence des passions, et je me suis repentie depuis de cette parole inconsiderée. J'etois alors dans tout l'orgueil et la vivacité de la premiere jeunesse; mais à quoi servirait-il de vivre, si ce n'etait dans l'espoir de s'ameliorer.'

It is rather singular, that a question like that of suicide, of its moral rectitude and possible expediency, should never have been fairly and fully discussed. This has been because wise men, in modern days, have felt so strongly the conviction of its folly and wickedness, that they have never thought it worth while to refute the various sophistries, which go to defend the innocence and wisdom of the self-murderer. It is, too, a subject on which few men form an opinion for themselves; the happy do not think of it at all, and when the various misery of life chances to force upon any one the thought that death is near* and waits but his bidding; the fear of death, of its pains and its consequences, makes him at once cling to life, and hope for relief from some change, less appalling than that which must be the last. But much crime might have been prevented, perhaps, if the question had been settled by fair and rational argument, distinctly stated, for we doubt not that a large proportion of those, who have thrown life away, have done so after much deliberation, unhappily delayed until their minds were weakened and distorted, and their moral sense palsied

* There is something sublime in the stern copiousness, with which the Stoics dwelt particularly on the facility, with which suicide may be committed. 'Ante omnia cave, ne quis vos teneret invitos; *patet exitus.* Si pugnare non vultis, licet fugere. Ideoque ex omnibus rebus, quas esse vobis necessarias volui, nihil feci facilius quam mori. Attendite modo et videbitis quam brevis ad libertatem et quam expedita ducat via. Non tam longas in exitu vobis quam intrantibus moras posui:' &c. *Seneca de Providentia in fine. See also Epist.* lxx.

by suffering; until immediate and severe misery pressed hard upon them, and shut out the prospect and hope of the future. At such times reason cannot do its office; and if it could, the passions exasperated by misery can be withstood only by habitual and settled convictions. Madame de Staël has treated the subject with considerable ability and a great deal of eloquence, but she has hardly enforced sufficiently the argument against this crime, which may be drawn from the use of that portion of existence we pass on earth. We are wise and good, just in proportion as we consider and treat life and all its incidents, as moral means to a great end. Upon every moment of time an eternity is dependent; and whenever we sacrifice a moment, we throw away an instrument, by which we might have created an eternity of happiness. Different individuals are provided with different means; these may be pain or pleasure, plenty and happiness, or privation and suffering; the tools with which we are to work may be inconvenient and burthensome, or light and pleasant; but they must be the most useful and efficacious, or they would not be put into our hands: at any rate they are all we have. We cannot fix too deeply in our minds the truth that life is not an absolute, but a relative existence, as in its relation to the eternity, with which it is connected, consists all its value and importance; and this conviction comes very seasonably and is then most useful when life seems worthless and death welcome. Madame de Staël had too much sense not to detect and expose the vulgar notion, that suicide is an act of cowardice. To call it so is a poor abuse of language, which never persuaded any body. If there be such a thing as courage, if the word means any thing, it is the encountering imminent danger, or the self-infliction of severe and immediate pain, in order to avoid or prevent a distant but greater evil. Now if he is a coward who, made miserable by causes which must continue to operate while he lives, thinks himself doomed to wretchedness as lasting as his life, and determines to shorten as much as possible the period of his suffering, although in so doing he must endure the terrors and agonies of death, if he is a coward; then certainly he is also one, who extracts an aching tooth, because he does not like to pass his nights in pain and sleeplessness; and so is he, who amputates a gangrened limb, because he has not resolution enough to lie still and die of mortification; and so too is he who goes

upon the field of battle, and sets his life upon the cast, because he cannot endure the pain of living undistinguished, or of seeing his country harmed. Fortitude is one thing and courage is another; the evils which the one patiently endures, the other resolutely shakes off, and however weak and impolitic it may be to die before we must, it is idle to call it cowardly.

The father of Madame de Staël had retired to Copet and she was with him, when the French troops entered Switzerland. M. Necker, by a decree passed during the reign of terror, had been placed upon the list of emigrants, and of course doomed to death, whenever and wherever caught by French troops; but such was the ascendency of his daughter's genius or his own fame, that the decree was disregarded and the generals of the army treated him with great respect. This moderation induced Madame de Staël to return to France where her husband resided; she soon, however, grew tired of the persecutions and insignificance which she was obliged to endure there, and returned to her father, extremely angry with herself because she could not, like him, live contentedly in solitude. But she had been too long used to the exciting stimulus of competition and success, which doubles one's existence and powers, to get on comfortably without it. In 1798 she returned to Paris to see her husband die, and then went back to her father at Copet.

In 1800 Buonaparte passed through Geneva and visited M. Necker. It is said that Madame de Staël requested a private audience, and availed herself of it, to descant most eloquently upon the means, which his high office gave him of advancing the happiness of France, and gently hinted to him certain plans of her own which she thought singularly well adapted to promote this object. The First Consul listened to her in profound silence and with apparent attention, and when she had done, replied by asking, 'who educates your children, Madame?'

It was chiefly in Switzerland that 'Delphine' was written; it was printed at Geneva in 1802. Its popularity was very great when it first appeared, but soon died away. Once read eagerly and every where, it now descends from the shelf of a circulating library scarcely once in a twelvemonth. It is certainly written in a most captivating style, and with a brilliancy and energy of language, that all French

literature can scarcely equal; but as a story it is very dull, and its morality is—or rather is not—very questionable. The hero and heroine are the best people in the world, accidentally ruined by the error and vice into which they happen to fall. There is not a character in the book which it would be safe to propose and dwell upon as a model; though to the principal personages there are given quite as much virtue and principle and good sense, as were at all consistent with their being very imprudent and sinful. The book was attacked very generally and severely, and the author found it necessary to make a regular defence of her system of novel writing. She did it upon these grounds, that none can be improved or injured by descriptions of character and life but the weak and honest. They who are fixed in goodness do not need instruction of this kind; they who are radically vicious will not regard it. Now the best thing to be done to him, who wishes to be good and wants not correctness but firmness of purpose, is to inspire a dread of faults, which they whose feelings are pure and delicate and whose intentions are good, commit when placed under tempting circumstances and stimulated by passion. She adds, that a writer may be equally a severe moralist, whether he describe vice and its punishment or virtue and its reward.

In 1803 Madame de Staël again appeared in the capital of France, with the intention no doubt of being very brilliant in the court of the First Consul and the coteries of Paris, and of gathering in the tribute of praise due to her last literary success. But unhappily the watchful activity of her acute and energetic mind was still feared, or she was a little too sarcastic in her remarks upon the passing events of the day, or Buonaparte was mean enough to revenge upon the daughter, the crime of the father, in publishing a book against the consular government; for he soon pronounced against her a sentence of banishment to a distance of forty leagues from Paris. After the sentence was made known to her, she saw her arch enemy, and said to him, 'you are giving me a cruel celebrity; I shall occupy a line in your history.' She attempted to reside at Rouen, about thirty two leagues from Paris, and afterwards in the valley of Montmorency, which was still nearer the capital, but was ordered to withdraw beyond the interdicted limits, and she then went with her daughter and her friend and protector,

Benjamin Constant, to Frankfort. Here she found herself so scantily supplied with deference and admiration, which were to her necessaries of life, that she left the town in the midst of a severe winter and repaired to Berlin, where she succeeded as perfectly as in her beloved Paris; and as there was competition enough to make success gratifying, she remained here, enjoying highly the society of the city, till the spring of 1804, when, on the 18th of April, she received intelligence of her father's sickness. She immediately sat off, and until she reached Weimar, the idea that she had been deceived, and that her father might be no more, never entered her mind. She learned there that he had died at Geneva on the 9th, after a short but very painful illness.

The grief occasioned by this unexpected misfortune, prevented Madame de Staël from attempting any thing of a literary kind for some months, during which she indulged her sorrow in solitude and inaction, and when she resumed her labours, it was for the purpose of publishing the best of her father's manuscripts, with a short account of his character and private life. She was, we had almost said mean enough, to insert among them the following compliment to Buonaparte. 'Ce qui distingue éminemment le Premier Consul, c'est la fermeté et la décision de son caractère, c'est une superbe volonté qui saisit tout, règle tout, fixe tout, et qui s'étend ou s'arrête à propos. Cette volonté, telle que je la dépeins d'après un grand modèle, est la première qualité pour gouverner en Chef un grand Empire. On finit par considerer cette volonté comme un ordre de la nature, et toutes les oppositions cessent. C'est aux secondes places que le vouloir est gêné, parce que toutes sortes de ménagemens sont alors necessaries, et qu'il faut y destiner une partie de ses moyens.' This flattery, however, did no good; her sentence of banishment was not revoked, and the paradise of Parisian society was still closed on her. But the world was all before her, and she endeavoured to dispel the gloom and sadness which oppressed her spirits, by a journey through Italy. In this happy land she remained, and listened to its delicious music, and breathed its perfumed atmosphere, and looked upon its sky which seems spread out over the creeping things of the earth, as if to tell them of the calm and purity of heaven, and communed with the mighty dead amidst the ruins which attest their might and glory, till

her talents and enthusiasm revived and her mind recovered its wonted elasticity.

It is to this journey that Europe is indebted for 'Corinne,' which of all our author's books is perhaps that which is most read and by which she is best known. Faulty, very faulty, as it certainly is, in the grotesque mixture of the philosopher, the antiquarian and the novelist, it must be regarded with admiration for its splendid literary execution and its strains of touching powerful eloquence. Of the story we need say nothing, as it must be familiar to our readers; the language, much more chaste and polished than that of Delphine, is equally animated and sparkling, and her remarks upon the national character of England, France, and Italy are generally ingenious and correct. As a novel it is certainly a bad one; the incidents are improbable, not to say impossible, and more unnatural and wild conceptions than Oswald and Corinne never yet were embodied in prose or poetry. Yet it will always amuse and interest the reader from the ingenuity of her remarks, and the vivacity and sometimes sublime eloquence with which she expresses her opinion and feelings.

In 1810 de l'Allemagne was finished, and the manuscript delivered for examination to the censors, who suppressed many passages, and then licensed its publication. It was accordingly put into the hands of her printer, and ten thousand copies were struck off, when an order was received from the minister of police, that the whole impression should be destroyed. 'Au moment où cet ouvrage alloit paroître, et lorsqu'on avoit déjà tiré les dix mille exemplaires de la première édition, le ministre de la police, *connu sous le nom du Général Savary*, envoya ses gendarmes chez le libraire, avec ordre de mettre en pièces toute l'édition, et d'établir des sentinelles aux diverses issues du magasin, dans la crainte qu'un seul exemplaire de ce dangereux écrit ne pût s'échapper. Un commissaire de police fut chargé de surveiller cette expédition, dans laquelle le Général Savary obtint aisément la victoire, et ce pauvre commissaire est, dit on, mort des fatigues qu'il a éprouvées en s'assurant avec trop de detail, de la destruction d'un si grand nombre de volumes, ou plutôt de leur transformation en un carton parfaitement blanc, sur lequel aucune trace de la raison humaine n'est restée; la valeur intrinsèque de ce carton estimée á vingt louis est le seul dédommagement que le libraire ait obtenu du général ministre.'

As soon as the impression had been entirely destroyed, she was ordered to surrender the copy, by which it had been printed, and to leave France in twenty-four hours. She wrote to Savary that she could not make the necessary arrangements for her journey in less than eight days, and was permitted to delay her departure as long as she had requested. The letter in which this permission is granted is very curious. The minister begins with telling her to depart instantly after the eight days should expire, and then says that she must not imagine that this exile was meant as a punishment for her neglect in not mentioning the emperor in her book on Germany, as this omission was rather meritorious than censurable, inasmuch as no place could have been found in the work which would have been worthy of his name; but that her general conduct for a number of years had imposed upon the government the necessity of compelling her departure from France. He then adds very civilly, 'Il m'a paru que l'air de ce pays ci, ne vous convenait point, et nous n'en sommes pas encore réduits à chercher des modèles dans les peuples que vous admirez.' At last Bonaparte carried his revengeful persecution so far, as to banish some of her friends, who had the generosity to visit her, and thus she expresses her indignation. 'C'en etoit trop porter avec soi la contagion du malheur, ne pas oser s'approcher de ceux qu'on aime, craindre de leur écrire, de prononcer leur nom, être l'object tour à tour, ou des preuves d'affection qui font trembler pour ceux qui vous les donnent, ou des bassesses raffinées que la terreur inspire, c'etoit une situation à laquelle il falloit se soustraire si l'on vouloit encore vivre.'

Various are the opinions respecting the merit of de l'Allemagne. The remarks upon the German character and customs, and upon the lighter literature of Germany are generally allowed to be correct; but the account of German philosophy and metaphysics is thought obscure and unintelligible. We are, however, inclined to think the difficulty arises, not from any indistinctness in the author's ideas, or in her mode of expressing them, but from her supposing a much greater previous acquaintance with the works of Kant, Jacobi, and Schelling, than falls to the lot of many of her readers.

It is well known that Madame de Staël was in habits of great intimacy with the Schlegels, and the best part of her criticism has been attributed to them. This, however, has been

done upon no other ground than general probability. We happen to know that Frederick Schlegel, who taught her German in Paris before she went to Germany, has declared that he read with her most of the books of which she has spoken in her de l'Allemagne, and that she was sufficiently acquainted with German literature to have written the work without assistance from any one; and that August Wilhelm Schlegel equally disclaims all participation in its opinions or its composition. Moreover, it was not for a mind like Madame de Staël's to borrow tamely from any one.

The last and best of her works, that upon the French revolution, we noticed in a former number. It should have been, as it was, the best of her works, for she lived where the springs of the revolution had their source—in the saloons of Paris. She listened to the murmuring of the waters ere they broke forth, and saw them as they rose, and watched their desolating progress. She lived early enough to remember well the face of the country through which they passed, the magnificence, the beauty, and the foul and stagnant corruptions which they overwhelmed; and she lived long enough to see the waters subside, and the seeds they deposited germinate, and promise an abundant and wholesome growth: and she lived perhaps long enough to see how many poisonous plants sprang up and flourished with rank luxuriance, and to feel the sting of the reptiles who were bred in the slime which the troubled waters left behind them. This book is destined to live long; and we venture to prophecy that it will go down to posterity by the side of Burke's Reflections. Higher praise than this it does not need and could not receive.

Upon the whole, we think Madame de Staël was a most extraordinary woman, and the greatest female that has ever written. Other women have made books as directly useful, and in a certain sense of the word, as sensible; but no one has displayed a mind of such power and extent, so well cultivated and filled; no one has done so much to vindicate the intellectual equality of woman with man, for she not only stated the argument for it strongly and eloquently, but illustrated it well. The character of her mind was formed by a combination of qualities which rarely meet together. With an imagination luxuriant to excess, she reasoned acutely and sometimes profoundly; and while her understanding acted with such rapidity and promptness that it almost seemed in-

stinct, its grasp was wide and strong. There are shades in her character, on which it would give us no pleasure to dwell; but which we rejoice to think had no necessary or even natural connexion with the superiority of her talents or of her education.

ART. X.—*Reports of Cases adjudged in the Court of Chancery of New York. By William Johnson, Counsellor at Law.* Vols. I, II, and III. Albany, 1816, 1818, 1819.

MR. Chancellor Kent was appointed a puisne judge of the Supreme Court of New York on the sixth of February 1798, Chief Justice of the same court on the second of July 1804, and upon the resignation of Mr. Chancellor Lansing, succeeded to the distinguished station of Chancellor of New York, on the 25th of February 1814. He has been long, therefore, before the public in a judicial character, which he has sustained with increasing reputation, a reputation as pure as it is bright; and he is, at the very moment we are writing, devoting himself to the labours of jurisprudence with a diligence and enthusiasm, which excite the admiration of the veteran counsellor at the bar, even more than of the ambitious student just struggling for distinction. He has always been remarkable for an unwearied attention to business, a prompt and steady vigilance, and a sacred reverence for juridical authorities. For him the easy course of general reasoning, popular analogies, and fanciful theories, has no charms. He does not believe that judicial discretion is the arbitrium boni judicis, much less boni viri; or that he is at liberty to promulgate rules, either of law or equity, measured by his own abstract notions of what is fit or reasonable. He contents himself with administering the common law as he finds it, without the rashness to presume himself wiser than the law, or the vanity of distinguishing himself by innovations. His life has been devoted, sedulously and earnestly, to professional studies. He has fathomed the depths and searched the recesses of the ancient law, the black lettered relics of former times, so much disparaged, and yet of such inestimable value. He has traced back the magnificent streams of jurisprudence to their fountains, lying dark and obscure amidst the rubbish of monkish retreats, or stealing silently from the

chivalric heights of feudal grandeur. His researches have been, amidst the dust and the cobwebs of antiquated lore, pursued in the unfashionable pages of the Year Books, and Glenville, and Fleta, and Britton, and the almost classical Bracton. He has dared to examine the abridgments of Brook, and Fitzherbert, and Statham; books, from which the modern student starts back with doubt and apprehension, as the great reservoirs, whence have been drawn the best principles of modern times, and whence must be drawn the body and the soul of that learning which distinguishes the professor from the sciolist. He has not stopped short at a survey of the mere Gothic structures of the law; but has examined with eager and enlightened curiosity the beautiful systems with which the commercial law has been adorned in our day. He has mastered all their refinements, and has in no small degree contributed to their beauty and perfection. He has drawn deeply from the commercial law of foreign nations; the works of Straccha, and Rowe, and Valin, and Pothier, and Emerigon are familiar to his thoughts and his writings. He has there found the sources, from which our own jurisprudence is to be illustrated; and one is at a loss which most to admire, the incomparable discernment of the Judge, or the attractive excellence of the materials. If his attainments had found their boundary here, they would have entitled him to great praise; but he has nobly extended his inquiries beyond the common and commercial law, and explored the Roman jurisprudence through its texts and commentaries, with uncommon acuteness and accuracy. This has been done with no idle view, to gratify a mere speculative curiosity, or to gather up the fragments of antiquarian fame; like all his other studies, this has been made subservient to the great purposes of his life, the promotion of justice, and the establishment of a solid jurisprudence founded in the most enlightened policy. In his decisions we can every where trace the happy use of that marvellous system of doctrines which Justinian collected with so much care, and which stands unrivalled in the world for its general equity, and nice adaptation to the necessities of mankind; a system, which was gradually matured by the labours of jurists and prætors, during centuries, in which Rome was the mistress of the world, and which had the singular advantage of being the combined result of experience and general reasoning and

judicial interpretation, aided very little by imperial rescripts, and rarely marred by imperial interference. Let those, who now doubt the importance of the study of the civil law by common lawyers, read diligently the opinions of Mr. Chancellor Kent, and they will find all the objections raised by insolence and ignorance and prejudice practically refuted, and the civil law triumphantly sustained. They will perceive the vivid lights, which it casts on the paths of juridical science, and they will be instructed and cheered in the pursuit, though they may not hope to move in the brilliant career of such a judge with equal footsteps.

It required such a man, with such a mind, at once liberal, comprehensive, exact, and methodical; always reverencing authorities and bound by decisions, true to the spirit, yet more true to the letter of the law, pursuing principles with a severe and scrupulous logic, yet blending with them the most persuasive equity; it required such a man, with such a mind, to unfold the doctrines of chancery in our country, and to settle them upon immoveable foundations. Without doubt, his learned predecessors had done much to systematize and amend the practice of the court. But it cannot be disguised, that the general state of the profession was not favourable to a very exact and well regulated practice. There were, comparatively speaking, few lawyers in the country, who had devoted themselves to Courts of Equity. In general the ablest men found the courts of common law the most lucrative, as well as most attractive, for the display of their talents. They contented themselves with occasional attendance at the Chancery bar, and placed their solid fame in the popular forum, where the public felt a constant interest, and where the great business of the country was done. In many of the states no Court of Chancery existed. In others it was a mixed jurisdiction, exercised by courts of common law, and in those, where it was administered by a distinct judicature, there is great reason to fear that the practice was very poor, and the principles of decision built upon a rational equity, resting very much in discretion, and hardly limited by any fixed rules. In short, the doctrines of the courts depended much less upon the settled analogies of the system, than upon the character of the particular judge. If he possessed a large and liberal mind, he stretched them to a most unwarrantable extent; if a cautious and cold one, the system fainted and expired under his

curatorship. This description was applicable, perhaps, without any material exceptions, to the equity jurisprudence of our country, and New York comes in probably for a full share of it. At least there are in the volumes now before us abundant proofs that neither the practice nor principles of the Chancery of that state had, previous to the time of Mr. Chancellor Kent, assumed a steady and well defined shape. We see, for instance, that points of practice are often most elaborately reasoned out by this learned Chancellor in various opinions, as if the case stood de novo before him, and he was called upon for the first time to apply the English practice to our own. This could hardly have occurred, if there had been a constant, settled channel, in which it had previously flowed.

Nor is it difficult to account for this state of things, consistently with the highest deference for the learned judges, who had administered equity. In England the Court of Chancery is, and for a long time has been, the most active and most extensive judicature in the kingdom. From the existence of a law of descents, which gives to the eldest son the exclusive heirship of real estate, there arises a necessity for complicated marriage settlements, apportioning the property among all the children, and looking to very remote contingences for their completion. The same circumstance makes last wills and testaments extremely intricate and perplexed, and fills them with provisions for younger sons and daughters and remote relations, which may not be exhausted in a century. Hence we find complex entails, springing uses, contingent remainders, and express or resulting trusts, spreading over almost every estate in the kingdom, and weaving a net-work, which at last becomes so close and so embarrassing, that a private act of Parliament is the only effectual remedy to disentangle the title. It is scarcely possible to form the most simple marriage settlement without incorporating some trusts into it. And as to last wills, even if they furnish no direct case for the application of Chancery jurisdiction, which rarely happens, yet they almost invariably fall within the cognizance of that court, in virtue of its general jurisdiction as to legacies, or to compel a settlement of the accounts, and distribution of the estate. So that it has been remarked, and probably with great correctness, that in the course of half a century almost every estate in the kingdom passes

under the judicial review of the Chancellor. Nor is this to be wondered at, when we consider, that no trustees can safely act, without the direction of a Court of Equity; and that in complicated settlements and wills, there must be a great variety of clauses, whose exact meaning and extent can never be ascertained, until they receive a judicial interpretation. This is an inexhaustible source of hostile or amicable litigation; and of itself would create more business, than the diligence and talents of a half dozen chancellors could despatch, within any reasonable time. And it often happens, with all the exertions of the chancellor, the master of the Rolls, the Vice Chancellor, the Chancery Court of the Exchequer, and many local Courts of Equity, that suits of this nature are still pending, after the lapse of twenty years, and sometimes survive all the original parties and their immediate descendants and representatives. It is fortunate for our country, that the genius of our institutions, and the happy structure of our laws of descents, by dividing and subdividing property among immediate and remote relatives, by equitable rules, silently provides for ninety-nine cases out of a hundred of all the objects of an anxious parent or friend. We hear, therefore, of few cases of settlements, and comparatively few of wills, which are not extremely simple and are not exhausted with the breath of the first limitation. Entails have practically ceased among us, from the facility, with which they may be turned into a fee; and indeed under the present circumstances of our country, they would be likely to generate family feuds and difficulties, rather than accomplish any valuable purpose. We may therefore easily see in the past circumstances of our country very strong reasons, why the chancery jurisdiction has hitherto had but a limited scope for its powers; and why its principles and practice have not hitherto assumed a very scientific cast in our own tribunals. It is but a few years ago, that our common law courts were governed by a very lax jurisprudence. There are few reports older than twenty years; and those few leave us little regret for the total oblivion cast on all preceding time in our legal annals. There were, without doubt, acute and able lawyers, and learned judges, but they were few in number, and the defects of the judicial system and practice, and the narrow walks of business, precluded any great improvements. We had scarcely any commercial law; and very few contracts on which it

could operate; and the generalizing spirit of the present day had scarcely shed a doubtful twilight over us. Our suits principally respected titles or trespasses to land, or personal wrongs, or penalties, or local topics, or debt, or bonds, or assumpsits on contracts for labour, or services and goods sold in small parcels. Policies of insurance, bills of exchange, and promissory notes, and shipping contracts and charter parties are the growth of a thriftier trade, and more extensive mercantile enterprise. They have grown up among us almost in our own day. Indeed, in England they are not in a practical sense much older than the day of Lord Holt; and as to insurance law, it was almost contemporaneous with the reign of George III. If then our courts of common law were so limited and lax in their practice, it is not to be supposed that our Chancery Courts could have been very exact or methodical. Their business was of a nature not to attract the highest talents; and before the revolution, in some of the states, the office of Chancellor was but a political appointment. We find it stated by Mr. Johnson, in the preface to the present reports, that in New York, 'the erecting of a Court of Chancery by an ordinance of the 2d of September 1701, to consist of the *Governor and Council*, rendered it extremely unpopular; and frequent but fruitless attempts were made by the Assembly to destroy the court. It continued to be held under that ordinance, though little business appears to have been transacted in it, until its organization in March 1778, under the constitution of our state.' What is true with respect to the Chancery of New York is probably true with respect to most of the other equity courts in the Union. They had little business before the revolution. The revolution itself was not a season for building up a judicial establishment, and the times that succeeded, until after the adoption of the constitution of the United States, were times of so much difficulty and distress and want of capital and want of confidence, that there was little inclination to become either an equity lawyer or an equity judge. In better times many years must have elapsed before there was a regular current of business; and that was, from obvious causes, slow and uncertain, and not always the clearest. Without going more into detail, it may at once be seen why, even in the busy state of New York, we are driven almost to the time of Mr. Chancellor Kent in our search for a systematic compend in

Equity. The fault was not in the learned Chancellors, but in the materials, and in the organization of the system, and the difficulties of the times, and the lax state of the profession.

It may perhaps be asked, as it has been heretofore asked, whether Courts of Equity be on the whole of any serious importance in our country, considering that many of the most fertile sources of litigation are here completely dried up, or spring up in courts of common law. We have already alluded to some of these sources; but before we proceed to answer this inquiry, it may not be improper to advert to a few more of the subjects of Chancery jurisdiction in England, which are not likely to have an extensive operation here, or at least to be drawn here within the same jurisdiction. We may at once dismiss all consideration of the common law jurisdiction of the chancellor, such as his authority of granting suits of scire facias to repeal patents, petitions and monstrans de droit, traverses of office, scire facias upon recognizances, &c. These properly fall within the cognizance of our courts of common law, and are no appendages of chancery. In respect also to the statutable jurisdiction of the Chancellor, such as that under the bankrupt laws, little need be said, because it must depend upon the will of the legislature to whom shall be entrusted the summary powers exercised in such cases. Another important branch of the Chancellor's jurisdiction is exercised partly under statutes and partly under his general chancery authority and partly under his special authority, as the immediate delegate of the crown, acting as parens patriae. We allude to his jurisdiction in cases of charitable uses, a subject of great extent and difficulty, and of the deepest interest to the whole community. The English system on this subject has been built up with wonderful ingenuity; and the statute regulations are entitled to our most serious consideration. Mr. Wheaton in his valuable reports, adorned as they are with much of his own exact learning, has given us a sketch of the English law of charities in the appendix to his fourth volume. We merely mention the fact with the recommendation to all our legal readers, and particularly to those who are or expect to be legislators, to peruse it with the utmost diligence, as worthy of all their most serious reflections. Having alluded to the great statute of charitable uses of 9 Geo. 2. ch. 36. he emphatically concludes with the following remarks—'And it deserves the consideration of

every wise and enlightened American legislator, whether provisions similar to those of this celebrated statute are not proper to be enacted in this country with a view to prevent undue influence and imposition upon pious and feeble minds, in their last moments, and to check that unhappy propensity which sometimes is found to exist under a bigotted enthusiasm, the desire to gain fame as a religious devotee and benefactor, at the expense of all the natural claims of blood and parental duty to children.'—Already charitable donations, to an immense extent, have been bestowed in our country, without any check being interposed by the legislature. We are in some danger, and from the same natural causes which are forever at work in all ages and in all countries, of having our most valuable estates locked up in mortmain, and our surplus wealth pass away in specious or mistaken charities, founded upon visionary or useless schemes, to the impoverishment of friends, and the injury of the poor and deserving of our own countrymen. Let us but look for a moment at England, where, notwithstanding all the legislative and judicial guards interposed from time to time, abuses of the most digraceful and dangerous nature have grown up, under the administration of their charities by trustees and by corporations, and which parliament are now seeking to redress, and let us ask ourselves whether we can hope for a better state of things, when we have not a single guard, legislative, executive, or judicial, either to check improper donations procured by fanatical or other delusions, or to secure the just administration of them from the most gross abuses. We are not aware that any adequate authority at present exists in any of the United States for such purposes; and certainly in our own state there is not a pretence to say that we have any real substantial security. A Chancery Jurisdiction on this subject to the fullest extent seems indispensable to ensure justice as well to the intentions of the benevolent donors, as to the objects of the donations. Remedies, in courts of common law, are and must forever be utterly inefficient and illusory.

We have been unexpectedly led to these remarks by a deep sense of their immediate and pressing importance, and we quit the subject with great reluctance, believing that a full development of it could not fail to be interesting to all well wishers to our country, and to statesmen, to lawyers, to pious and benevolent men, to those who love and those who culti-

vate literature, the arts, or the sciences. But this is not the time or occasion for such a discussion. At present we must go drily on with our examination of the Chancery Jurisdiction. We may, however, say, that as long as charitable uses shall exist, and in a pious, refined, and elegant society, they must always be cherished, there is a necessity to follow up their administration with the cogent process of chancery visiting, quickening their diligence and their virtue.

There is another authority, which has been from time immemorial, or at least for several hundred years, exercised by the chancellor, which is said to belong to him not in his official capacity but as personal delegate of the crown. We allude to his jurisdiction in the cases of idiots and lunatics, as to the guardianship of their persons and the management of their estates, and the protection of their rights. Of an analogous character is the authority of the chancellor as to the care of infants. The king, as parens patriæ, is entitled to the care of infants, and this care is delegated by him to the Court of Chancery, and as it seems to this court alone. The Court of Chancery, therefore, exercises a most extensive jurisdiction as to the custody of the person and estates of infants, their maintenance, and marriages. In our country, as well from public convenience, as from considerations drawn from respect for private interests, this jurisdiction generally belongs to Probate and Orphans' Courts, which are instituted in every small district or county for the purpose of granting administrations, guardianships, &c. These tribunals are so domestic and popular and convenient, that it is highly probable they will always retain, if not an exclusive possession of this jurisdiction, at all events such a concurrent jurisdiction as will absorb the great mass of cases, and for general purposes be as efficacious and salutary as a Court of Chancery. In New York, however, it appears that the Chancery exercises a general superintending authority in these cases, in many respects analogous to that in England. In New England we believe the Probate Courts exercise an exclusive authority as to the appointment, and removal of guardians, and a concurrent, and sometimes an exclusive authority, in the settlement of their accounts.

There is another class of cases of every day's occurrence in England, which belongs exclusively to the Court of Chan-

cery, and must probably have an existence in every Court of Chancery acting ex æquo et bono. We allude to bills for specific performance of contracts in constradistinction to mere actions for damages for the breach of such contracts. The doctrines of courts of equity on this head have spread into numerous branches; and the system itself has become not a little complex and unsatisfactory. The notion that a Court of Equity is at liberty to dispense with a strict compliance with the terms of the contract, when no accident, mistake, or fraud in a strict sense, has intervened to prevent an exact compliance by the parties; and that the court may interfere with these terms, and as to *time* dispense with them altogether upon the footing of mere discretion, is so repugnant to a just conception of the obligation of contracts, and of the right of the parties to stand upon their own stipulations, as well as to general convenience and justice, that one wonders that such an extraordinary authority should have ever been assumed or tolerated. Yet it has become an inveterate rule in equity, that time is not, or at least may not be, of the essence of a contract; and, consequently, that a party may be entitled to relief and a specific performance, if a contract for the sale of lands be decreed, although he has utterly failed to comply with the conditions of sale within the period stipulated by the express letter of his contract; and this, too, to make the case stronger, rests not on a notion, that there has been fraud or circumvention or inevitable accident, (casus fortuitus,) or mutual and innocent mistake, but upon the mere will, we had almost said caprice, of Chancery, acting upon a thousand fancies of imaginary hardship. The old doctrine on this subject was most extravagant; and it seems the inclination of the present times to narrow the ground and reduce it more to principles of common reason and convenience. But still there is enough of difficulty and doubt in the cases that arise, to make us wish for a thorough reformation of the whole doctrine; and to put it upon this intelligible ground, that where the party seeks a specific performance, he must shew a strict compliance with the terms of the contract, or stand for relief upon some other real principle of equity. We ourselves have known specific performance decreed of purchases of real estate, after twenty years from the time of the contract, when the property had changed its value exceedingly three or four times in opposite ways, during the intervening period.

We have also known specific performance sought and reluctantly denied, after the lapse of more than thirty years, when all the original parties were dead, and the land, which was a wilderness, was become a settled and cultivated country. If there ever was a case for a statute prohibition of suits, except they are brought within a very short period, as a lawyer might say, by *journeys' accounts*, bills of this nature would furnish the most striking occasion for salutary legislation.

Still it is not, on the whole, probable that this head of equity will in our country ever embrace a very extensive jurisdiction. The reasons, which in England have conduced to raise up so many suits of this nature do not, and perhaps never will exist in a corresponding degree in our country. In England, from causes already attended to, conveyancing has become extremely complicated; titles are buried under loads of parchment; and the intricacy of the trusts and uses, present and future, springing and resulting, of powers gross or appurtenant, of entails, and contingent provisions, especially if the estate has passed through two or three great landholders' hands, or has been linked to a marriage settlement, becomes so perplexing, that it requires a vast deal of time and money to evolve its material muniments, and arrive at any thing like certainty even as to the transmission of the title. Now and then, to be sure, a *fine* or a *common recovery*, cures all latent defects, and gives a new start to the title; but in many cases these remedies are impracticable, and sometimes they fail, (as unfortunately happens in respect to remedies administered for physical diseases) even in the most skilful hands, and a latent taint first infects, and in the hands of a cunning solicitor soon eats up or destroys the title, though cased, as it were, in its triple mail of parchment, and surrounded by its concords and its vouchees. Hence it rarely happens upon the purchase of an estate in England, if it be of any considerable value, that conveyances are immediately executed. The title deeds are first to be thoroughly examined through perhaps a century; and diligent search made, not, as we might hastily imagine, into a few short deeds of a folio page in length, but into volumes of dark and mouldy parchment, rolled up like ancient manuscripts, and requiring as much time to unravel and study them. Abstracts of these titles are to be made out and laid before counsel for their consideration and opinion. If a doubt of fact or law occurs,

the search is to be renewed; outstanding terms of years are to be ascertained to be either satisfied and attendant on the inheritance, or to be subsisting for trusts, which are exhausted or still to be fulfilled; mortgages are to be traced, either as dead or living *fungi* on the trunk of the title through one or two generations; the records of courts are to be searched for liens of judgments and conveyances; and it is to be ascertained what limitations have taken effect or failed, and at what time and under what circumstances. It is to be considered too, that in general, deeds of lands are not recorded, as in our country; so that it is not easy to trace even the deeds through the various depositories. And, finally, a suit in Chancery for a discovery often becomes necessary to compel a reluctant or obstinate party to discover the title, by which he claims an interest in the land, or which he unjustly withholds from the legitimate owner. These are not exaggerations of the actual state of things, though perhaps to a careless observer, or a young lawyer accustomed merely to our local practice, it might seem otherwise. A treatise has already appeared, or is just about appearing, and a most important one in a practical sense it must be, on the mere subject of *abstracts of titles*, showing what a purchaser has a right to require, and what a vendor is bound to give, as to the history of his title to the land, before he can call on the former for payment or specific performance. From these remarks it must abundantly appear how it happens, that in England few important purchases are made, except by an *executory* contract, or in other words, a contract of sale, in which there are covenants to give a good title, on one side, and on the other to accept and pay the purchase money at a stipulated period. From unforeseen difficulties, from unexpected occurrences, and from indolence or a lax reliance upon the redeeming power of Chancery, it frequently happens that the conditions of the sale are not complied with; and thus the parties are prepared for a suit in Chancery. In due time it comes, when the parties are a little quickened in their course, and after references to a master in Chancery, to report upon the title, and other interlocutory proceedings, a decree in the course of four or five years is obtained, requiring that to be done, which some or all the above causes had contributed to leave utterly undone.

Many of our readers, we dare say, remember the follow-

ing remarks of Tristram Shandy: 'Upon looking into my mother's marriage settlement in order to satisfy myself and reader in a point necessary to be cleared up before we could proceed any farther in this history—*I had the good fortune to pop upon the very thing I wanted before I had read a day and a half straight forwards—it might have taken me up a month.*' If we have at all impressed our readers with our own views, they will begin to perceive that what they took for the colouring of romance, a bright and beaming fiction, was, or at least might have been, like many of Sterne's most beautiful and touching sketches, a mere matter of fact. There are, without doubt, many titles in England that could not be thoroughly investigated even upon parchment, without months of close and vigorous study.

Now the state of things is, as we all know, very different in our own country. Titles are generally very simple, and from obvious causes will probably always remain so among the bulk of our landholders. A few hours or days of diligent study will generally give us all that is worth knowing, as to the titles of estates offered for sale. In cases of sales, the deeds of conveyance are usually contemporaneous with the contract of sale. In cases where it is otherwise, the contract contains few provisions, and the period for its fulfilment is rarely distant; and at the stipulated period it is usually either fulfilled or abandoned altogether, or a new contract is substituted. This is so generally true, or at least a specific performance is so little insisted on, that bills for this purpose are of not very frequent occurrence in states accustomed to the exercise of Chancery jurisdiction. And we believe and hope that this happy state of things will long continue. A strict equity on this subject is the best equity. It discourages sloth, and chicanery, and management; compelling parties to forego the unjust advantage of speculating on the future chances of a profitable rise, in the value of estates contracted to be purchased; if they rise, then at the fortunate moment, long after the time fixed for the performance of the contract is gone by, to insist upon a specific performance; if they fall, then to leave the property to the owner with a claim for damages or a suit in Chancery on his hands. There is so much good sense in the remarks of Mr. Justice Livingston on this subject in Hepburn *v.* Auld, (5 Cranch, R. 262,) that we cannot forbear to quote them. The learned Judge on that occasion said, 'The reme-

dy by a decree for the specific performance is a departure from the common law, and ought to be granted only in cases where the party who seeks it has strictly entitled himself to it. It is said that by the English authorities, the lapse of time may be disregarded in equity, in decreeing a specific execution of a contract for land. But there is a vast difference between contracts for land in that country and in this. There the lands have a known, fixed, and stable value. Here the price is continually fluctuating and uncertain. A single day often makes a great difference; and in almost every case time is a material circumstance.'

Having glanced in a cursory manner at some of the subjects of equity jurisdiction, which will be found of but limited application in the United States, we may now turn to other subjects, in which it will forever operate with a constant and salutary influence. These are cases where relief becomes necessary from accident or mistake of the parties; cases of complicated accounts, whether between partners, or factors, or merchants, or assignees, or executors and administrators, or bailees, or trustees; cases of fraud, assuming myriads of vivid or of darkened hues, and as prolific in their brood as the motes floating in sunbeams; cases of trust and confidence spreading through all the concerns of society, and sinking their roots deep and firm through all the foundations of refined life and domestic relations; cases, where bills of discovery are indispensable to promote public justice; and lastly, cases, where bills of injunctions are the only solid security against irreparable mischiefs and losses. Some other cases might be mentioned; but those abovenamed must constitute the body of every equity jurisprudence adapted to our country. And in the times to come they will probably give ample employment for all the learning, and acuteness, and diligence of the ablest chancellors, in states where courts of equity are established.

The inquiry then, whether courts of equity are, on the whole, of any serious importance to our country, is in some measure answered by a mere reference to the subjects of its jurisdiction; are these of any serious concern to societies organized as ours are? Is it important to administer substantial justice, to suppress frauds, to relieve against inevitable casualties, to succour the injured, to interpose preventive

checks against malice and oppression, or mistaken claims of rights?

But it may be asked, why all these objects are not and may not be as fully accomplished by courts of law? To a certain extent they undoubtedly are accomplished by these courts, for it would be strange if courts, created for the administration of justice, should wholly fail to answer the purposes of their institution. The true inquiry, therefore, is not whether they are not of very great utility, which will be admitted by all persons of reasonable intelligence and honesty, but whether they accomplish all that, in a refined and elevated system of jurisprudence, it is desirable to attain. Now, we venture to say, that no person of competent skill in the science of law, or of comprehensive knowledge as a statesman, can fairly answer in the affirmative. There are many cases in which the parties are without remedy at law, or in which the remedy is wholly inadequate to the attainment of justice. Courts of law proceed by certain established forms, and administer certain kinds of remedies; their judgments are almost invariably general, for the plaintiff or for the defendant. If a case arise, in which the remedy already existing at law is inapplicable, or the established forms cannot be pursued, there is an end of relief. Now it is very easy to see that such cases must frequently arise; for human actions, and contracts, and torts assume an infinite variety of shapes, and become fashioned by an infinite variety of circumstances. The relief must, in many of these cases, be necessarily upon principles of equity of a mixed nature, and to a certain degree in favour of both of the parties. It may be wholly unjust to grant the plaintiff all that he asks, and as unjust to dismiss his suit without any relief. The parties in the defence too may have different rights, and different equities, and a judgment against them in the aggregate, or without adjusting these equities, might lead to the most mischievous results. Now a court of law cannot shape its judgments according to interfering equities of this sort. It cannot mould them so as to impose conditions and exceptions on the rights of one party, and give effectual aid to the interests of the other. It can only pronounce whether the plaintiff has or has not a legal cause of action and sustain the suit or dismiss it accordingly. Farther, a court of law cannot grant specific relief. It can, with few exceptions, award damages on-

ly ; these are, in many cases, utterly worthless as a compensation or a remedy. If in some cases, as in ejectments, real actions, and replevins, it acts *in rem*, it touches only the gross and palpable interests of property ; but it cannot and does not pretend to reach the subtle rights growing out of incidental trusts or equitable claims and liens. If we are still pursued by the inquiry, why courts of law may not do all these things ; we answer that they may, but it must be by a change of their organization and character ; and by investing them in form and in fact with all the forms of a Court of Equity. While they remain with their present powers and distinctive character they are prohibited by the cogent mandates of the law from such unhallowed usurpation. In short, such an inquiry might be at once stopped by a question of another sort ; why may not courts of equity perform all the functions of a court of law ? But the true answer is, that each is adapted to its own objects, and cannot accomplish the objects of the other without breaking in upon all the settled analogies of the common law, and shaking its oldest and most venerable foundations. He who is bold enough for such an undertaking may applaud himself as possessing the temerity of Phaëton, with the perfect certainty of not escaping his fate.

We have yet a few words to say as to the question of the general utility of courts of equity, which we the more readily offer at the present moment, because if a convention should be called to revise the constitution of this state, it is not improbable that a proposition will be made to provide for the distinct and independent establishment of such a court ; at all events, the subjects will more and more engage the attention of the legislature, as well as of the profession of the law ; and it is very desirable, whatever may be the result, to act on such subjects with all the light which experience or general reasoning may throw in our path.

And we think, in the first place, that if a system of equity jurisprudence is to be introduced into this Commonwealth, its utility will principally depend upon the nature of the system which we take for our guide. If, for instance, we take the equity jurisprudence of England, or which is the same thing, of New York, so far as it is applicable to our situation, and adhere to it with a rigid and undeviating firmness, following closely its priciples, and walking within its ac-

knowledged limits, there can be no doubt that it would be a real blessing. But it cannot be disguised that there is too strong a tendency, not merely in the legislative bodies, but in some of the courts of law, and still more in some of the courts of equity in the United States, to give a popular cast to our jurisprudence ; to make it a sort of arbitration law, or to decide cases upon their own peculiar circumstances, without reference to any general principles. Now this is precisely the worst state of things, both for the profession and for the public ; and yet in popular governments the mass of the community are most unaccountably wedded to it. The maxim of common sense, as well as of profound investigation, is misera est servitus, ubi jus est vagum aut incertum ; and yet what can more tend to perpetuate this uncertainty than to escape from exact and leading principles and to plunge into decisions upon all the circumstances of cases ? It is a very easy, but a very dangerous course, and often occasions apostacy from the law. Mr. Justice Buller has somewhere emphatically said, that he had a dread of hard cases ; they were the shipwrecks of the law. The same observation applies quite as forcibly to the practice of mixing up all sorts of considerations and circumstances in judicial decisions. It confounds all clear distinctions of right and wrong, and bewilders and sometimes betrays us into unfrequented labyrinths, where there is not a single thread of the law to guide us onwards, and a thousand spectres prevent us from retracing our steps. In respect to equity jurisprudence, where so much is necessarily left to discretion, we mean to judicial, not arbitrary discretion, it is of infinite moment that it be administered upon determinate principles. Lord Camden on one occasion protested in strong and indignant eloquence against the exercise of such discretion, which he significantly observed, was the length of my Lord Chancellor's foot. Without meaning to become his followers in this protest, we have no hesitation in declaring our opinion, that the boundary cannot be too sedulously marked out or too watchfully guarded. If a Court of Chancery be at liberty to deal in all sorts of inquiries as to mere hardship, inconvenience, and conjectural imposition : if it may indulge in notional equities upon its own views of what may be fair and reasonable and according to good morals between the parties : if it may remove the barriers and bars of the law, because there may

not be much honour or honesty in a party's availing himself of their protection: if it may cover up deviations from settled rules by encouraging lax practices and aiming to cure all the blunders of unskilful or rash persons, we have as little hesitation in declaring that we think Massachusetts is better without such a court. We have now at least the security of settled rules to guide us to our claims of property. We are accustomed to considerable exactness and regularity in the transaction of our business. We know what our remedies are, if we pursue the usual forms of completing contracts; and what is a still more powerful admonition, we know what they are not, if we neglect to give certainty and accuracy to to our contracts. If we mean to be secure, we now take the proper steps to give that security a tangible shape, such as the law may grapple with and protect. We do not consider how little may be done and just save us by its grace: but how much ought to be done to make our sales and our purchases solid and safe. There is now a wholesome thrift and accuracy about our concerns that disciplines us to close attention, and gives us an almost instantaneous perception of what is proper. We have at all times, and almost instinctively, the air, and character, and pride of real business-men, who look at their title-deeds before they lock them up, and what is of quite as much consequence, look at them diligently afterwards. We do not slumber over our rights, but are instant in season and out of season; and we do not awaken from the dreams of indolence for the first time after the lapse of twenty and thirty years, and then consult a solicitor as to the best mode of framing a bill that shall relieve us from all the ill effects of delay, and forgetfulness, and hardship, and folly. Our laws hitherto have secured only the vigilant, and not the sound sleepers. Vigilantibus non dormientibus leges subvenient. Now, it is most desirable to perpetuate this course of things, to prevent litigation, and to encourage legal certainty. And all this, a good court of equity, sustained by a learned, intrepid, and discriminating Chancellor, such as Lord Eldon or Mr. Chancellor Kent, would accomplish; but all this would be lost under different auspices, as may be seen in some parts of the Union. Without adverting to the learned Judges of our state bench, we could name a gentleman at the bar of Massachusetts, whose cautious, well instructed, modest, powerful mind, would adorn such an equity bench and create an equity bar.

In the next place, we think that the administration of equity should be by a distinct court, having no connexion with, or dependence upon, any court of common law. There are many reasons which urge us to this conclusion. The systems of equity and law are totally distinct in their relations and objects. The practice and proceedings have little or nothing in common. The principles of decision are in most cases exceedingly different. A life devoted to either study will not more than suffice to make an eminent judge; a life devoted to either will be filled up with constant employment. There is some danger where both systems are administered by the same court that the equity of a case will sometimes transfer itself to the law side of the court; or the law of a case narrow down the comprehensive liberality of equity. The mixture, whenever it takes place, is decidedly bad in flavour and in quality. Tibi Doris amara suam non intermisceat undam. Besides, we all know that nothing is more distracting to the mind than a variety of pursuits. A steady devotion to one gives great accuracy and acuteness, and keeps the whole current of thought fresh and transparent. We do not say that a judge may not be, with great advantage, transferred from one bench to the other; for this has been often done with splendid success. Witness the cases of Lord Hardwicke, and Lord Kenyon, and Lord Eldon. What we contend for is, that the same judge should not at the same time administer both systems. In this, as in many of the arts, the subdivision of labour gives greater perfection to the whole machinery. A man may be a great common law judge; but may have no relish for equity. The talents required for both stations are not necessarily the same; and the cast of mind and course of study adapted to the one may not insure success in the other.

There is another reason of no inconsiderable weight, founded upon the nature of the duties to be performed in equity. It is no small portion of the business of such a court to grant injunctions upon judgments obtained at law. This is a delicate duty, and should be entrusted to an independent court, which has as yet received no impressions of the cause, and to whom its previous merits are unknown.

We might suggest many other reasons, but we have not time for an ample discussion of such a subject. There is one objection, however, which we have heard repeatedly urged

against these suggestions, which requires some answer. It is stated that the courts of the United States are examples of the union of the powers of courts of law and equity, and that hitherto no inconvenience has been felt from this circumstance. Without stopping to inquire into the accuracy of this statement, we may be permitted to suggest that there are some distinctions in reference to those courts which deserve consideration. In the first place, those courts exercise but a limited jurisdiction in equity cases. This arises not from any restriction of their powers upon the subject matter, but from the qualified nature of their authority over persons. They can, in general, take cognizance of suits in equity only where the United States, or aliens, or citizens of other states are parties. Now it must be obvious that the great mass of equity suits in every state must consist of controversies between citizens and inhabitants of that state ; and that local laws will greatly swell that mass. Where there are few cases, a court either of law or equity may transact the whole business without any serious inconvenience. But it is far otherwise where suits mix up with all the concerns of society, and may have an indefinite multiplication. Besides, there is, or at least seems to be, under the constitution of the United States, an inherent difficulty in separating the supreme jurisdiction at law from that in equity. And precisely the same difficulty exists in the constitution of this state, and most urgently requires to be removed by an amendment. We hope that this subject will not escape the attention of the convention which may be called to amend the constitution, whether it be thought best to create or not to create a court of equity at the present time. If ever such a court be created, it should be capable of having a distinct and independent existence given to it. But to return ; another circumstance as to the courts of the United States is, that in six out of the seven circuits, state courts of equity have an existence either connected with the courts of law or with an independent organization. So that the learned judges have the fullest opportunities of becoming familiarly acquainted with the practice and principles of equity through their whole professional career ; and thus rarely transfer into the circuit courts the local practice of the states within their circuits. Such is not the case in general in New England. These are considerations, which in a combined view ought very much to abate

the strength of the objection raised from the example of the judicial legislation of Congress on this subject.

In the next place, if a Court of Equity is to be established and appeals are to be allowed from its decrees, those appeals ought not to be to any court of law; but to a distinct tribunal created for the purpose. From causes which will readily suggest themselves to every juridical mind, and to which we have, in some measure, already alluded, a court of law, as such, cannot be presumed to be thoroughly conversant with the doctrines and practice of equity. And if it be entrusted with a superintendence over that subject, it must happen that decrees will often be reversed without sufficient reasons, and the Court of Equity sink from its natural elevation to the level of the inferior courts in the state, and that the personal character of the Chancellor will settle the authority of decisions, and thus open the path to personal influence and judicial jealousies; or that the decrees will be affirmed without much consideration, leaving to the court of appeals little more effective power than that of registering the decrees. We are among those who believe that the existence of rival co-ordinate courts has the most salutary influence upon all judicial proceedings. They act as checks and balances to each other; and if their judgments are to be reviewed, it should be by a tribunal of a distinct organization, common, if you please, to both, but sufficient in independence and dignity to prevent any undue ascendancy by either. England owes much of the perfection of her jurisprudence to this striking feature in the structure of her government. She has rival tribunals of law and equity, where the pride and learning of the profession and the bench are stimulated to the noblest purposes, the advancement of justice, and the redress of injuries, by that perpetual watchfulness, which keen intelligence, and sincere devotion to the law never fail to stir up in ambitious minds.

While on this subject we are disposed to recall the public attention to a report made to the legislature of Massachusetts, and printed by its order, in the year 1808, recommending the establishment of an independent Court of Equity. We dare say this document is totally forgotten, as most of our unsuccessful legislative proceedings are, by the public at large, and perhaps by most of the committee, who reported it. It has been consigned, as most of other state papers are, to some dark and ob-

scure corner of some lumber-loft in the State House, there to await the dissolution of their mortal remains by the gradual operation of time, and moulds, and vermin, 'unwept, unhonoured, and unsung.' Would it not be for the reputation and dignity of our state government, if, instead of leaving our public legislative documents to perish, some pains and some money were employed to preserve a number of copies bound and lettered in the state archives, that posterity may know the progress of our legislation; and find some public indices to those subjects which interested the public mind, and gave a new direction to public inquiry? We doubt, whether there exists in the whole commonwealth at this moment a single regular series of the reports, bills, and other proceedings of our legislature, which have been printed at the expense of the government, even within the last twenty years. Surely this is a most wanton indifference to our public concerns, and it will be regretted, deeply regretted, when it can no longer be within the reach of common diligence to collect them. It should be made the special duty of our Secretary of State to have bound and kept in his office at least twenty copies of all documents printed by order of the legislature; and to have a transcript in bound volumes of all manuscript proceedings, reports, bills, &c. acted upon in any shape by the legislature at every session, with a suitable index for reference. In this way the next generation would not be in utter and irretrievable ignorance of our domestic legislative history, full of instruction, as it must be, both as to what we ought to avoid, and what we ought to cherish.

But to return to the report to which we have alluded, and which we accidentally found in searching our papers for another purpose. It contains a summary of the practice and principles of courts of equity, in some of the points most applicable to our jurisprudence. Since the period in which it was made, the legislature has by law cured some of the defects enumerated in the report; but the substance of it is just as true now as it was at that time. We transcribe from it the following paragraphs, which we commend to the careful perusal of our statesmen and jurists.

'Courts of Equity, as contradistinguished from Courts of law, have jurisdiction in cases, where the latter, from their manner of proceeding, either cannot decide at all upon the subject, or cannot

decide conformably with the principles of substantial justice. Whenever a *complete*, *certain*, and *adequate* remedy exists at law, Courts of Equity have generally no jurisdiction. Their peculiar province is to supply the defects of law in cases of *frauds*, *accidents*, *mistakes*, or TRUSTS. In cases of fraud, where an instrument is fraudulently suppressed or withheld from the party claiming under it; where an unconscientious advantage has been taken of the situation of a party; where a beneficial property is injuriously misappropriated; equity interferes, and compels complete restitution. In cases of accident, or mistake, where a contract has been made respecting real or personal estate, and by reason of death it cannot be completed; or where, by subsequent events, a strict performance has become impossible; where, in consequence of a defective instrument, the intention of the parties is in danger of being defeated; or where a want of specific performance cannot be compensated in damages; equity administers the proper and effectual relief. In cases of trust, where real or personal estate by deed, will, or otherwise, is confided to one person for the benefit of another; where creditors are improperly preferred or excluded; where numerous or discordant interests are created in the same subject matter; where testamentary dispositions, for want of a proper trustee, are not fulfilled; and where fiduciary estates are, by connivance or obstinacy, directed to partial or unjust purposes; equity applies the principles of conscience, and enforces the express or implied trusts according to good faith.

'Sometimes, by fraud or accident, a party has an advantage in proceeding in a court of ordinary jurisdiction, which must necessarily make that court an instrument of injustice, if the suit be suffered; and equity, to prevent such a manifest wrong, will interpose, and restrain the party from using his unfair advantage. Sometimes, one party holds completely at his mercy the rights of another, because there is no witness to the transaction, or it lies in the privity of an adverse interest; equity in such cases will compel a discovery of the facts, and measure substantial justice to all. Sometimes, the administration of justice is obstructed by certain impediments to a fair decision of the case in a court of law; equity, in such cases, as auxiliary to the law, removes the impediments. Sometimes, property is in danger of being lost or injured, pending a litigation; equity there interposes to preserve it. Sometimes, oppressive and vexatious suits are wantonly pursued and repeated by litigious parties; for the preservation of peace and of justice, equity imposes in such cases an injunction of forbearance.

'These are a few only of the numerous cases, in which universal justice requires a more effectual remedy, than the courts of

common law can give. In proportion as our commerce and manufactures flourish, and our population increases, subjects of this nature must constantly accumulate; and, unless the legislature interpose, dishonest and obstinate men may evade the law, and intrench themselves within its forms in security. One or two striking instances, applicable to our present situation, will illustrate these positions. In this Commonwealth no adequate remedy exists at law to unravel long and intricate *accounts between merchants in general;* and *between partners* the remedy is still less efficacious to adjust the partnership accounts. A refractory or fraudulent partner may seize the books, papers, and effects of the firm, and cannot by any process be compelled to disclose or produce them. In many instances, therefore, neither debts can be recovered, nor accounts be adjusted by them, unless both parties are equally honest, and equally willing. Great evils have already arisen from this cause, and still greater must arise, unless equity be brought in aid of law. In cases of *pecuniary and specific legacies,* no complete remedy lies to compel a marshalling of the assets, or an appropriation of them according to the intention of the testator; and where the interests of the parties are complicated, great injustice must often ensue. In cases of *trusts,* created by last wills and testaments, which are already numerous, no remedy whatsoever exists to compel the person on whom the fiduciary estate devolves, to carry them into operation. He may take the devised property, and if his conscience will permit, may defy all the ingenuity and all the terror of the law. *Mortgages* afford a great variety of questions of conflicting rights, which, when complicated, are beyond the redress of the ordinary courts; nay, more, may often be the instruments of iniquity under their judgments. A discovery on oath seems the only effectual mean of breaking down the barriers, with which the cunning and the fraudulent protect their injustice. The process, by which the goods, effects, and credits of debtors are attached in the hands of their trustees, is often inefficient, and sometimes made the cover of crafty chicanery. Perhaps too in *assignments of dower* and *partition of estates,* where the titles of the parties are questionable and intricate, or the tenants in possession are seized of particular estates only; it will be found that Courts of Equity can administer the only safe and permanent relief.

'The committee are not aware of any solid objection to the establishment of a Court of Equity in this Commonwealth. The right to a trial by jury is preserved inviolate; and the decisions of the court must be governed as much by settled principles, as courts of law; precedents govern in each, and establish rules of proceeding. The relief granted is precisely what a court of law

would grant, if it could; *for equity follows the law.* The leading characteristics of a Court of Equity are, the power to eviscerate the real truth by discovery of facts upon the oath of the party charged; the power to call all parties concerned in interest, however remote, before it; and the power to adapt the form of its judgments to the various rights of the parties, as justice and conscience may require.'

We have yet many things more to say on this subject, but time fails us, and we have wearied ourselves, and we fear that our readers also are wearied with the length of this discussion. Perhaps at some future time we may resume it. At present we are willing to pass the short remainder of our journey in such good company as Mr. Chancellor Kent and his excellent reporter.

Mr. Johnson, if we do not mistake, began the business of reporting in February 1806. Since that period he has published in an uninterrupted series all the decisions of the Supreme Court of New York down to the present time, in sixteen goodly volumes. He has also published three volumes of reports of the cases in the period immediately preceding Mr. Caines' reports in the same court. Unwearied in his labours, he has now added to our obligations to him, by presenting us the three volumes of Chancery cases, whose title is prefixed to this article. He has been so long before the public in this most respectable and useful character, that we know not if it be not superfluous to say a word upon the merits of his reports. We will venture however to give them a passing notice, at the hazard of repeating what almost every body knows, and none would incline to disbelieve. He is a gentleman, as we have the pleasure to know, of great literary accomplishments, well instructed in the law, and of most comprehensive researches. He loves too—and it is no inconsiderable praise in what are called these degenerate days—he loves the law with all his heart, and has a sincere and unaffected enthusiasm for its advancement. His reports are distinguished by the most scrupulous accuracy, good sense and good taste. He gives the arguments of counsel with force, precision, and fluency, transfusing the spirit, rather than the letter of their remarks into his pages. One is never puzzled by unintelligible sentences, impertinent sallies, or disproportionate reasoning in his volumes. There is an exactness and symmetry about them, that satisfies the judgment.

His notes too are all good; so good, that we wish we had a great many more of them. He leaves little causes to take care of themselves, and assigns them a brief space. But when he comes to great arguments, where research and talent are brought out with vast power and authority, he pours their whole strength before the reader, giving him all the materials of an independent judgment. He can, if he pleases, repeat such cases for himself, by the aid of the reporter. As to the opinions of the court, we have not any necessity to say much. It is, and always has been, a very able court, whose decisions any man might be proud to report; and the highly commendable diligence of the judges, in committing all their important opinions to writing, while it gives the impress of authority, at the same time secures the court from the inaccuracies and mistakes of oral opinions. It gives dignity to the bench, and certainty to the law. Who but must read with delight and instruction the opinions of such men, as Chief Justice Spenser, to say nothing of his learned coadjutors and predecessors? For ourselves, we have no hesitation in avowing the opinion, that the New York reports for the last twenty years will bear comparison with those of an equal period in the best age of the English law, begin the selection where you will. And this, whether we examine the well considered and ingenious arguments of the bar, or the deep reasoning and learning of the bench, or the accuracy and ability of the reporter. And as to the chancery decisions of Mr. Chancellor Kent, they are as full of learning and pains-taking research, and vivid discrimination, as those of any man that ever sat on the English woolsack.

Enough has been said, and more than enough, to attract the attention of our professional readers to the volumes at the beginning of this article. If we had room, we might be tempted to extract a case or two for perusal, on account either of its general interest, or the acute and learned discussion it contains. There may be some few cases, in which jurists might venture to hesitate, as to the extent of the Chancellor's decision; at least where there might be a measuring cast in mooting the law. But these cases, (if any such exist) are so few and so unimportant, that they are lost in the bulk of the volumes. And criticism is never employed to so little advantage, as in attempting to revise the sentences pronounced by courts of justice. The only fit and efficient tribunal, ex-

cept in very gross cases, seems to be that provided for by the law itself, an appeal to a higher tribunal to review the sentence, or to the same court to reconsider at another time its own judgments. We cannot quit these volumes, however, without expressing our gratitude to Mr. Johnson for presenting them to the public. No lawyer can ever express a better wish for his country's jurisprudence, than that it may possess such a Chancellor and such a reporter.

ART. XI.—1. *An Appeal to the Government and Congress of the United States against the depredations committed by American privateers on the commerce of nations at peace with us. By an American citizen.* New York, pp. 100. 1819.

2. *A proposed Memorial to the Congress of the United States.* Boston, pp. 8. 1819.

THE writers on national law distinguish between rules deduced by just reasoning from certain principles, and those which derive their force from common usage and consent. The former are of universal obligation, and are properly the law of nature applied to communities of men. The latter 'are fitted not so much to the goodness of an uncorrupted nature, as to the wants of one, that is depraved;'* they are neither binding upon all, nor at all times; they are brought gradually into use, are received by some sooner than by others, and may be changed without any violation of natural justice.

There is not much difficulty in defining the rights of property and the obligations of contracts, as they exist between nations. Public justice differs not essentially in these respects from private. The facts once settled, it is as easy to decide by what acts one nation has injured another in a state of peace, as to determine when the rights of one individual have been invaded or withheld by another; as easy to pronounce what is a just cause of war, if we allow war for any cause to be lawful, as to judge of the grounds of a lawsuit. In most cases, indeed, it will be found that neither party in

* *Jus gentium secundarium* dicitur, quod accommodatum [est], non tam incorruptæ naturæ bonitati, quam depravatæ necessitatibus. *Voet. ad Pand.* L. i. t. 1. n. 18.

a war is entirely right, or entirely wrong, and through the mist of mutual crimination and defence, manifestoes, answers, insults, and aggressions, it will be difficult to discern the first offence. But this is a difficulty not attributable to any defect or uncertainty in the code of public law.

But there is also a law of war, and it forms by far the most important branch of the *jus gentium*. Whence is this to be deduced? How far are the reciprocal rights and duties of nations at peace destroyed by a state of war, and what are the new obligations, that grow out of this state? What are the limits to the right of destruction, and how are they to be known? Who shall say to mad revenge, 'It is enough—stay thy hand?' Where is the precise boundary, on one side of which are glory and honour and victory; on the other, rapine and murder? It will be obvious, that there must be great uncertainty, as to the extent of the power given to enemies over the persons and goods of each other, and that wars will be carried on with more or less cruelty, as nations are more or less advanced in humanity. Reason will afford little aid, and the restraint will be rather the effect of milder feelings, than of more correct judgment. The conqueror will be deterred from a passionate and vindictive abuse of his power, more by the fear of being disgraced as a barbarian, than of being condemned as a violator of public law. What was once a theme of applause will in time be followed by reproach and shame. What is fit and right to be done towards an enemy will depend more on usage, varying at different times and among different people, than on any conclusions of reason. We would be understood to speak, as most writers on national law have done, without reference to the commands or the counsels of religion, whether natural or revealed. These writers seem to have adopted, as a truth, the poetic declaration, 'nulla fides, pietasque viris qui castra sequuntur.' They have proceeded upon false principles. As some political sophists have derived the principles of the social compact from a supposed natural state of men, when every one stood single and independent, free to give or retain that entire sovereignty, which he enjoyed over himself; so jurists have sought in the condition of savage nature for the rights and relations of political societies. They have therefore considered a state of hostility, as a dissolution of all ties, and a license to all mischief. An enemy, in their view, cannot be injured. Charity

and humanity may be offended; the atonement exacted may be greater, than would consist with that generosity and tenderness, which we esteem men the more for possessing; but the sufferer cannot consider himself wronged, nor is any positive and binding law broken 'It stands to reason,' says Heineccius, 'that against an enemy all things are permitted.'* And Puffendorf thus explains both the rights of belligerents, and the restraints, which humanity would impose upon the exercise of them: 'from the moment, that any one declares himself our enemy, since we have every thing to fear on his part, we are authorized, as far as in us lies, to use acts of violence against him to any extent,† and with no other limit, than our will;‡ but humanity requires, *that as far as the rules of military art allow,* we do no more injury to an enemy, than is necessary for our defence, for the vindication of our rights, and for our future safety.'.....'Non id solum considerari vult, quid hostis citra injuriam possit pati, sed et quid humanum, adde et generosum victorem facere deceat.' Grotius indeed limits the rights of war to what is necessary for attaining the end proposed, whether of self-preservation, just reparation, or merited punishment. [*Lib.* 3, *cap.* i.] But this, however just in theory, is too indefinite to afford any practical rule; especially when it is considered, that hostilities are allowed to be continued, until satisfaction is obtained, not only for the original wrong, which was the cause of the war, but for all the expense and injury sustained in prosecuting it. And we learn from the same enlightened and benevolent jurist, that 'by the laws of nations, the possessions of one party in a war are to the other, in all respects, as things without a proprietor,'§ and that 'all are accounted slaves, who are made prisoners in solemn public war,'.....'nor is an offence necessary, but the lot of all is the same, even of those, who, on the sudden breaking out of war, may be so unfortu-

* Hosti enim in hostem omnia licere rationi consentaneum est. *De Nav. ob vect. &c. commiss.*

† A toute outrance. *Barbeyrac.*

‡ Licentiam concedit vim contra ipsum exserendi in infinitum, aut quantum mihi videatur. *De Jure Naturæ, &c. lib.* 8. *cap.* vi. § 7. *De Officiis hom. &c. lib.* 2. *cap.* xvi. § 6.

§ Gentibus placuisse, ut res hostium hostibus essent non alio loco, quam quo sunt res nullius. *Lib.* 3. *cap.* vi. § 8.

nate, as to be found in the enemy's country.'* Cocceius, the commentator of Grotius, goes somewhat further, and maintains, that 'an enemy is to be regarded as a criminal, deserving of death; hence, when the government declares war against any one, by that very act it gives to every citizen the right to inflict on him any degree of evil, to lay waste and plunder his possessions,' &c. Let us not, however, forget what we owe to Grotius. The lessons of moderation and humanity, which he gave as admonitions, have so approved themselves to the reason of mankind, that they have acquired the force, if not the character, of laws; and cruelties, of which he contented himself with saying, 'certe omittantur sanctius, et cum majori apud bonos laude,' would now cover with disgrace the conqueror, who should practise them.

Thus have the rights of war been deduced from the assumed position, that an enemy cannot be injured; that by the injustice or violence, which gave occasion to the war, he has forfeited all rights, and become as an outlaw; that his life, liberty, and property are at the mercy of the conqueror; that to spare may indeed be praiseworthy, but cannot be enjoined as an act of justice. And, as between nations there is no arbiter, each party in the war has all the rights of the injured, and is subject to all the penalties of the guilty. Justice must always be presumed to reside with good fortune or superior strength. Every subject, too, of the warring state, however ignorant he may be of the causes of the war, however peaceful and unoffending, has incurred a deadly guilt in the acts of his superiors, and is the object of unsparing vengeance, and unlimited punishment. Whatever *temperaments* have been admitted in the conduct of wars, have been the result of feelings and notions of humanity more or less refined, and views of policy more or less enlightened, as different degrees of knowledge and improvement have prevailed. 'Every people has a law of nations. The Mohawks even have theirs. They eat their prisoners, it is true, but they send and receive embassies, and acknowledge the rights of war and peace; the mischief is, that their law of nations is not founded upon true principles.' *Montesq. Esp. des Loix, lib.* 1, *ch.* ii. What Bar-

* Par omnium fors est, etiam eorum, qui, fato suo, ut diximus, cum bellum repente exortum esset, intra hostium fines deprehenduntur. *Lib.* 3. *cap.* vii. § 1.

beyrac, in his eloquent and beautiful discourse on what the laws only permit or allow, has said of civil laws, applies with still greater force to national jurisprudence. 'We learn from the monuments of antiquity, that the first laws had scarcely any other origin, than custom, which is often a wretched master. Rules thus introduced are commonly established with little examination or reflection. Ignorance, prejudice, passion, example, authority, caprice, have manifestly a greater share in producing them, than reason. It is rather the opinion and decision of a blind multitude, than of the wise and virtuous.'

Had religion and the morality of the gospel been made the foundation of the rights and duties of states, in war as well as in peace, it is probable that many customs derived to us from ruder ages, perhaps even war itself would long since have disappeared. But rights have been sought for in another source, and religion has been permitted to interpose her counsels, not her authority, to moderate the use of that power, which reason and nature have been thought to bestow. Is it not probable, that some usages yet remain, which habit and prejudice, and an imaginary interest alone, prevent our regarding with the same abhorrence, with which we should now look upon the reducing of captives and their posterity to perpetual and irredeemable slavery? Have we yet confined the license of war within those bounds, which the law of charity would assign to it? Do we not even receive as principles of justice, some things which have no better support than the practice of earlier and less enlightened times, justified by an artificial reasoning, which, taking things as they are found, invents a plausible defence for whatever custom allows?

We have made these remarks more especially with a view to the practice of privateering. It is matter of just astonishment, that a species of warfare so repugnant to all our better feelings, so estranged from all that is deemed noble and honourable among men, should so long have prevailed. It is a practice, which can boast nothing of the chivalrous spirit, which we have been taught to admire in the warrior. It begins and ends in pure unmixed selfishness. It seeks neither fame nor power, but wealth; wealth, not the fruits of patient industry or honest skill, but wrested by the hand of violence or stolen by surprise and stratagem. It makes every

other consideration yield to a sordid avarice. In its greediness it hardly distinguishes between friend and foe, and is ever ready to pounce upon its prey, whether it be the property of an enemy, or that of a fellow citizen, which, by the rigid rules of war, has become the subject of confiscation as prize. The means, which it employs, are not less cruel and disgraceful, than its purpose is unworthy. It can make its way through blood to the treasure it gloats upon, lure by false smiles to destruction, advance securely to its object under the guise of friendship, ensnare by treachery, deceive by perfidy, and secure its unrighteous gains by shameless perjury. Not that every one who engages in this practice is under the influence of the vilest passions, insensible to shame, or stained with the blackest crimes. Many, we doubt not, whose lives prove them to be friends to religion and humanity, and who would scorn to enrich themselves by fraud or dishonesty, have adventured in privateering without reflecting upon its nature and tendency. They have been deceived by the legality of the practice. Perhaps, even, they have persuaded themselves that, while they improved their own fortunes, they were displaying a patriotic zeal for the service of their country. As long as privateering is countenanced and encouraged by public authority, there will be many estimable men, who, looking no farther than to what the law allows or forbids, are blind to the immorality of preying upon their follow creatures. A solemn responsibility, then, rests upon those who govern. Nations, by a common consent, should relinquish a custom so inseparable from abuse and licentiousness, so vexatious to commerce, and so little under the control of wholesome laws.

There is no doubt that great antiquity may be pleaded for the practice of plundering. For several ages after the irruption of the Northern barbarians, war and plunder might almost be considered as individual rights. Every petty baron enjoyed the privilege of taking up arms, and every vassal was free to seek his fortune in predatory incursions upon the enemy, whether by land or sea. The infidel powers, which bordered the Mediterranean, covered that sea with small piratical vessels; and the Christian states, whose commerce suffered from their depredations, partly in self-defence and partly in the hope of gain, fitted out small cruisers or armed their merchant ships. It was most common for many

persons to unite for this purpose in a sort of partnership. No public commission was required. Against infidels it was the right and duty of every Christian to wage incessant hostility, and to do them all possible injury.* At the same time, the inhabitants of the North sent their fleets to make descents upon the coasts and enrich themselves with the wealth and luxuries of the South.† They were most often conducted by private adventurers, whose bravery or skill caused them to be selected as chieftains. Piracy was a common trade, and the word was far from carrying with it the ideas of criminality and disgrace, which we now attach to it. Selden cites a passage from Asserius, who was the preceptor of king Alfred, in which he says, that this prince 'caused long ships to be built for the purpose of defence against enemies approaching by sea,—*impositisque piratis* in illis vias maris custodiendas commisit;' on which Selden remarks, that 'this word "pirates" is not here used for robbers, as it now commonly is, but for such as attacked the enemy's fleets in naval warfare.'‡ So the term 'corsair,' from the Italian *Corso*, is the generic term of pirates and privateers. *Martens on Privateers, p. 2. note.* The truth is, that in an age when the obligations of humanity were neither acknowledged nor understood, and every person might make such use of his strength or his cunning, as seemed to him best, so as he did not invade the property of those to whom he was bound by the tie of a common allegiance; and when the sanction of the prince was not necessary to enable private persons to attack and plunder the enemy, there could be no distinction between authorized and unauthorized depredations on the ocean. 'The Gauls,' says Cleirac, '*regarded all strangers as enemies*, and not only robbed them of their goods, but put them cruelly to death, offering them, as bloody sacrifices, to their false gods.'§ And Boucher: 'In the height of the feudal

* Martens.

† 'The ravages of the Normans are hardly mentioned before Charlemagne. It was then they began those cruises, which made them the terror of other nations.' Boucher Consul. de Mer. p. 494.

‡ Selden's Mare Clausum, Lib. 2. cap. 10.—quoted Robinson's Coll. Mar. p. 21. 'and embarking *pirates* in them employed them to guard the approaches by sea.'

§ 'Les gaulois réputaient tous les etrangers pour leurs ennemis, et ne les expoliaient pas seulement de leurs biens, mais en outre ils les mettaient cruellement à mort, et en faisaient de sanglans sacrifices à leurs faux dieux.' Us et Cout. de mer. p. 95.

anarchy, that is to say, in the ninth century, every person might act the part both of judge and executioner, without any incompatibility in the two conditions and without disgrace. *'At that period mariners were a set of robbers.' Consulat. de Mer. vol.* i. *p.* 74. The inhuman law of wreck, first relaxed in England by the act of Henry I, providing, that the property should be saved from forfeiture, if any person escaped alive from the ship, is a memorable instance of the same savage state of manners. *See Hume, reign of Henry* II. *Black. Com. chap.* 8, *book* i. *Boucher, Consul. de Mer. vol.* i. *p.* 490.

It is in vain then for the apologists of privateering to have recourse to these remote ages in support of the assertion that the practice has long or always existed.* Even were antiquity a less doubtful plea than it is, the argument proves nothing, but that in those benighted ages men robbed of their own heads, and that in these more civilized times we have so far improved, as to sanction the proceeding by public authority. The modern practice is better than the ancient, inasmuch as some excesses may now and then be prevented by the controul of government over privateers, and it is convenient to be able to denote piracy by the absence of a lawful commission; but the question remains, whether it is morally right, or politically expedient, for governments to grant such commissions, or for individuals to act under them? And this question can never be answered by saying that men were accustomed to rob for a long time, before it began to be necessary to have a public commission for doing it. It was found necessary to impose restraint upon private and unauthorized violence, even between the subjects of hostile powers. This was a declaration, that the ancient practice was only fit for a state of society, as barbarous as that in which it existed. Something, doubtless, has been gained by the restriction of acts of war to those, whose hands are armed by the sovereign power; but whether this gain has been great, or the most essential evils connected with private plunder have been remedied, let history speak. We appeal to the loud and incessant complaints of neutrals, of whose commerce privateers have been justly called the scourge; and to the tortures and cruelties inflicted by these 'judges and exe-

* See note to Martens on Privateers, p. 20. Willenberg derives privateers from Theute, queen of Illyria—and Valin maintains that they have existed *at all times.*

cutioners,' of which the annals of privateering, ancient and modern, afford so many examples.

It is probable that the practice of nations in the disputes arising between them or their subjects, has followed the same course of improvement with their municipal laws. Every one, who has attended to the history of criminal jurisprudence, knows that, not many ages since, every individual possessed the power of punishing, and the avenging of wrongs was left to the injured party or his friends.* But as the world grew wiser and more inclined to peace, a check was put upon the right of private revenge, and tribunals began to inquire into the fact, and to measure the punishment in proportion to the guilt. So, among nations, the frequent broils occasioned by the hostile attempts of individuals, gave rise by degrees to the custom of granting letters of reprisals. At first, doubtless, they were only given in a few instances, and subjects continued to attack and plunder without asking the permission of the sovereign. The *Consolato del Mare* contains an entire chapter regulating with great precision the conduct of armed cruisers, and the division of their plunder. Not a syllable appears of any public commission being necessary, or even a judicial condemnation of prizes. The publication of the first Catalan edition of this collection is supposed by Boucher to have been about 1494, and he carries the compilation as far back as the beginning of the tenth century. But its origin is fixed with more probability between the years 1250 and 1266.† This code is commonly supposed to have been first compiled in Barcelona, and it is in the Mediterranean, where commerce was preyed upon by the Barbary corsairs, that we should expect to find the practice of private cruising most prevalent. Letters of marque and reprisals were issued upon the petition of a subject, who complained of injustice done to him by some foreign prince or subject, and they empowered the party receiving them, whether an individual or a community, to obtain satisfaction by seizing the goods of any subject of the offending state. They were limited to the restitution of what had been unjustly taken or withheld, or compensation in damages for the injury suffered.

* See Kames' Historical Law Tracts.

† Martens, p. 6.—and this is the assertion of Giannoni, in his History of Naples, book xi. chap. 6 But see note to the preface of Robinson's translation of the prize chapters. The chapters relating to this subject were probably added at a period subsequent to the original compilation.

Reprisals are sometimes spoken of, as a means of preserving peace, because wrongs were thus remedied by a sort of violence, which is compared to that used in the execution of legal sentences between subjects of the same state, without the extreme resort of war.* The earliest instance of reprisals recorded in England, was in 1295, when Edward I. granted to a subject, 'licentiam marcandi homines et subditos de regno Portugalliæ et bona eorum per terram et mare.' *Rymer, vol.* ii. *p.* 691. *Anderson, vol.* i. *p.* 136. It does not seem to have been considered *necessary* to be provided with letters of reprisals until the fourteenth century, and no mention is made of them in treaties prior to that time. *Martens, note, p.* 10. The right of making reprisals is said to have belonged to every magistrate and even to private subjects until the reign of Charles VII. in France.† *Puffendorf, de Jure Nat. &c. lib.* 8, *chap.* 9. § 13, *not.* 2. A law was made in France concerning them in 1345. *Martens.* There are frequent instances in Rymer in the fourteenth and fifteenth centuries.‡ An act of the English parliament of the year 1353, 27 *Edward* III. provides, 'that no foreign merchant shall be troubled or impleaded &c. provided, that if any of our liege subjects, merchants or others, be injured by any lords of foreign lands, or their subjects, and the said lords, upon due request, refuse to do justice, *we shall have the right of mark and reprisals,* as has been used in times past.' *Martens, p.* 12, *note.* An ordinance of Charles VI. of France of 7 Dec. 1400, forbids

* Puffendorf defines them, 'violentæ executiones in cives aut bona civium alterius reipublicæ, quæ justitiam administrare detrectat.' *De Jure Nat. &c. lib.* 8, *c.* 6, § 13.

† This is probably a mistake for Charles VI. See his ordinance mentioned afterwards.

‡ *Vol* viii. *p.* 96—*Fr. ed vol.* iii. *part* 4, *p.* 166, *year* 1399—letters granted by Henry IV. commanding his admirals and other officers to seize the ships and goods of subjects of the Earl of Holland in English ports, reciting with great care the previous demands and refusal of justice. *Rymer, Fr. ed. vol.* iv. *part* 1, *p.* 161, *year* 1409—granted by Henry IV. to the Sire de Casteillon to enforce the performance of contracts made with him by the subjects of the king of Arragon, commanding all public officers to assist him, and to keep all prizes safe in their fortresses till the contracts are fulfilled. *Rymer, Eng. ed. vol.* viii. *p.* 717, *year* 1411—against the Genoese. *Rymer, Eng. ed. vol.* viii. *p.* 755, *year* 1412—against the persons and goods of the French, limited to the satisfaction of the actual damage—*Anderson, vol.* i. *p.* 239, another instance against the Genoese, limited in sum, year 1413. In the year 1379, Richard II. is said to have granted to the people of Dartmouth a general cruising commission against the French, and in 1385, the inhabitants of that town took some French vessels.

any subject to fit out ships at his own expense for carrying on war against enemies, without license first obtained from the admiral or his lieutenant. *Code des Prises, tom. i. p. 1. Robinson, Coll. Mar. 75. Martens, p. 18.** From this ordinance and from other documents, it is probable, that in the fifteenth century commissions began to be issued to private subjects in time of war, similar to those which were granted for making reprisals in time of peace. They retained and still retain the name of 'letters of marque and reprisal,' and, at this day, the issuing of them is often the first declaration of war. It is, however, very certain, that the practice of granting commissions to privateers did not become general before the end of the sixteenth century. The first instance, in which their aid appears to have been considered important in carrying on the war, was in the contest between Spain and her revolted provinces of the Low Countries, which began in 1569. In 1570, the Prince of Orange, in the hope of replenishing his impoverished finances by seizing on the money sent from Spain to the Netherlands, issued commissions to many of his adherents, authorizing them to cruise against the ships of Spain. A considerable fleet was equipped, and, increasing daily in number, they soon became terrible by their depredations not only on the commerce of Spain and the Netherlands, but on that of their own and of other countries. It is said, that their country suffered from them not less than from the despotism and cruelty of Alva. As the confederated reformists had themselves been called in derision *gueux*, or beggars,† these free-booters were called *gueux de mer*, or sea-beggars. *Eng. Univ. Hist. vol.* xxvii. *p.* 388. Many of them were punished by Spain and other nations as pirates, not so much, it is said, on account of their excesses, as of the supposed illegality of their commissions. *Martens, chap.* i. § 7. The French, however, may probably claim the distinction of having first sent out, in any considerable numbers, these scourges of the sea. Their code exhibits the most ancient regulations concerning privateers, and it is well known, that their maritime laws have always been the most severe against the commerce of neutrals. De Thou relates,‡ that in 1555,

* An English act of Parliament to the same effect was passed A. D. 1414, 2 *Hen.* V, *c.* 6; and a law of the emperor Maximilian respecting the admiralty of the Low Countries in 1487, 'ordered, that no person should fit out a ship for a cruise without the express permission of the admiral or his lieutenant.' *Martens on Privateers, p.* 18.

† De Thou, tom. v. ‡ Hist. tom. ii. p. 633.

the French king, having received advice that several Dutch ships of great burthen were returning from Spain, laden with every sort of valuable India goods, gave orders to the inhabitants of Dieppe, unquestionably the most experienced mariners in France, to equip such vessels as they could find in the ports on the coast of Normandy, and seize this rich fleet. The *privateersmen* of Dieppe,* having fitted out for cruising nineteen ships and six brigantines, under the command of Epineville, a celebrated mariner, met the Dutch opposite to Dover. A most obstinate battle ensued, which lasted six hours. Many ships on both sides were burned; the flames drove the French from their own ships into those of the enemy, and having more men, they made many of them prizes. The Dutch lost a thousand men, and the French four hundred.

The English seem not to have been slow in imitating the example set them by the French and Dutch. In the year 1586, we are told by the author last quoted,† before war had been declared between England and Spain, Philip II. seized and confiscated the goods of the English merchants. The English, under pretence of reprisals, set themselves to pirating over the whole ocean, harassing the navigation not only of the Spanish and their allies, but even of the people of the Low Countries, whom they robbed without distinction. The merchants of the United Provinces in vain sought redress in the English admiralty. But the queen, Elizabeth, wearied by the complaints which came to her from all quarters, made severe regulations, requiring cruisers to give security not to meddle with any ships but those of Spain, and not to dispose of their prizes till they had been regularly condemned in the admiralty. 'The piracies,' says De Thou, 'were checked for a time by these decrees; but means were soon found to evade them, under pretence of privileges, or by means of subtleties, which persons in power connived at.'‡

* Les *armateurs* de Dieppe ayant armé en course, &c.

† De Thou. Hist. tom. ix. p. 545.

‡ See in Robinson's Coll. Mar. a proclamation of Elizabeth of the year 1602, reciting the great extent of the piracies complained of, and forbidding any man of war to be fitted out without license and surety. The preamble refers to other laws and orders lately published, 'upon the growing on of these fowl crimes and piracies colored by other voyages.' And in the Statuta Admiralitatis of Master Rowghton, printed in Clerke's Praxis, p. 161. we have an ordinance of 1591, requiring presentment to be made of all those, that *since the late proclamation* have had traffic with the

Spain and England, shortly after the depredations committed under the commissions of the Prince of Orange, issued commissions to great numbers of privateers. The expeditions of Drake and Frobisher are said to have been of this nature.* In 1625, James I. found it necessary to issue letters patent addressed to the High Admiral, reciting the great losses and damages sustained by many of his subjects, by the surprising and taking of their ships and goods by the subjects of Spain in the Low Countries, and by those of the States General, and that justice having been demanded in vain, his subjects had made humble suit to him for letters of reprisals. He, therefore, requires the Admiral to grant commissions for taking the ships of the Low Countries and States General to such of his subjects as had been so damnified.† In 1627, Charles I. granted reprisals against the French to such of his subjects as had had ships or goods taken by the French, and a war followed in the same year. *Anderson, vol.* ii. p. 27. In that same year too, we are told, that Charles was obliged to fit out an armament to protect the coal trade against privateers from the Spanish Netherlands. *Anderson, vol.* ii. *p.* 29. The Dutch war for independence ended in 1648. Towards

leaguers in France, and of all who have set out ships without commission, and to inquire what ships and goods have been taken at sea without commissions, and of breaking bulk and disposing of prizes before sentence of the admiralty, and what captains &c. under colour of commissions of reprisal have boarded, taken, &c. ships of England, France, &c. Holland, Zealand, &c.

* Martens, p. 26. And in the debate upon Pulteney's Act for encouraging privateers, 1739, Pulteney argues from this, as an instance of the spirit and power, with which private adventurers could act. 'It was,' he says, 'to private adventurers, that all the success of Sir Francis Drake was owing.' *Parl. Deb. v.* xvii. *p.* 415. We have great doubts, however, whether these expeditions are to be classed with cruises of privateers. Drake's was an expedition fitted out for the purpose of attacking Spain in her home dominions. Elizabeth furnished about 30,000*l.* and several ships, and Drake and his associates supplied the residue. The spoils were to be equally divided between the queen and the fleet. *De Thou, vol.* x. *p.* 693. There is an important difference between the employment of ships equipped at private expense, but hired by the public and sailing in fleets with the public forces under the government of naval officers; and cruises performed by one or more ships under the orders of private adventurers. *See also Lee on Captures, p.* 199. It seems to have been an ancient practice to use in warlike expeditions ships under the wages of the king, and to give them a part of the prizes. See the ancient articles of the admiralty subjoined to Clerke's Praxis, p. 163, A. 19.

† Rymer, Fr. Ed. vol. vii. part 4. p. 185.

the close of it, in 1643 and 1645, the *placarts* or decrees of the States General held out great encouragements to privateers. *Martens*, 26. In that long continued contest the use of these instruments had become familiar. Treaties and laws were made for defining their rights, and preventing the abuses to which they were found to have so strong a tendency.* But new discords kept alive the spirit of plunder, and privateers still found favour, as a cheap means of carrying on war through the instigation of private avarice. In 1634, disputes began between the English and Dutch. The Northern fishing, and the sovereignty claimed by the British in the narrow seas, were the chief subjects of contention. England, in the mean while, was disturbed by civil wars, and the parliament party was not likely to omit any means of annoyance, which had heretofore been employed with success. In 1643, exasperated by the cessation of arms in Ireland, 'they forbade all masters of ships to bring over any officers or soldiers, on penalty of the forfeiture of their vessels, and gave letters of mark to merchants and others, who would fit out ships at their own expense, impowering them to take to their own profit all such ships and goods as they should meet coming over with soldiers or warlike stores for the king.'† The friends of the king were not slow in retaliating this measure, for in 1644 the goods of the merchants trading in France were seized, and letters of marque granted against all that adhered to the Parliament. *Whitelocke, p.* 130. Of the activity of private cruisers in the hostilities which ensued, the reader may satisfy himself by referring to the book last quoted, where he will find instances of mutual depredation, more numerous than we have any disposition to record. Doubtless, the practice was attended with much abuse and licentiousness. In the year 1650, April 16, 'an act passed for preventing wrongs and abuses done to merchants at sea,

* Martens, p. 26. Voet ad Pand. vol. 2. p. 602, speaks of the 'naves privatorum prædatorias permissione ordinum instructas,' and cites the Admiralty instructions of 13 Aug. 1597, and decrees 1 April 1602, and 28 Jan. 1631, and he adds, that the decrees of 9 Aug. 1624, and 22 Oct. 1627, required all prizes to be brought into port before breaking bulk, 'that the republic and others might not be defrauded of their due portion of the plunder.'

† Neal's History of the Puritans, ch. 12. Whitelocke says, 'they granted letters of marque against all such as had taken up arms against the Parliament, or assisted the Irish rebels.' *Memorials, p.* 76. *year* 1643.

and prohibiting mariners from serving foreign princes or states without license.' *Whitelocke, p.* 451. Soon after this, in 1652, the Parliament and the Dutch came to open hostilities, and an active course of privateering commenced between them.* From their near neighbourhood and their former habits, there can be no doubt that during this two years' contest they kept up this sort of warfare in its worst form.

The restoration of the king made no alteration in the policy of the English as it respected their rivals, the Dutch. The scheme of maritime superiority was carried on in the same spirit which had dictated the navigation act. Privateers found great favour in the eyes of the court,† and the passage we are about to quote from the Life of Clarendon will show, that this is an important epoch in the history of the practice. It is the more remarkable, as it is from the pen of that virtuous chancellor himself. It relates to the period, 1664, when the ministers of Charles II. provoked a new war with the Dutch, in the prosecution of their great design of becoming the exclusive masters of commerce.

'It was resolved, that all possible encouragement should be given to privateers, that is, to as many as would take commissions from the admiral to set out vessels of war, as they call them, to take prizes from the enemy; which no articles or obligations can restrain from all the villany they can act, and are a people, how countenanced soever, or thought necessary, that do bring an unavoidable scandal, and it is to be feared a curse upon the justest war that was ever made at sea. Besides the horrible scandal and clam-

* July 19. New letters of marque granted by the states against the English. 12 Aug. A Dutch private man of war taken and sunk by two English ketches. *Whitelocke, p.* 539—541. *and see pages* 545—547.

† This may be inferred from the treaty made between the Dutch and Charles II. in 1674, which Postlethwait, [*Dict. Art. Privateer*] says, 'is fit to be a standard to all nations.' The preamble runs thus: 'and whereas the masters of merchant ships, and likewise the mariners and passengers do sometimes suffer many cruelties and barbarous usages when they are brought under the power of ships, which take prizes in time of war, the takers in an inhuman manner tormenting them, thereby to extort from them such confessions as they would have to be made; it is agreed that both his majesty and the Lords, the States General, shall by the severest proclamations or placarts, forbid all such heinous and inhuman offences &c.'

There was an article with France to the same purpose in the treaty of Utrecht.

our that this class of men brought upon the king and the whole government for defect of justice, the prejudice, which resulted from thence to the public, and to the carrying on the service is unspeakable. All seamen run to them, and though the king now assigned an ample share of all prizes taken by his own ships to the seamen, over and above their wages; yet there was a great difference between the condition of the one and the other. In the king's fleet, they might gain well, but they were sure of blows; nothing could be got there without fighting. With the privateers there was rarely fighting. They took all who could make little resistance and fled from all who were too strong for them. And so these fellows were always well manned, when the king's ships were compelled to stay many days for want of men, who were raised by pressing, and with great difficulty.' p. 242. From this time privateers have been common in all wars between maritime countries, and governments have endeavoured, by the most liberal encouragements, to increase their number, and whet their thirst of plunder. At the same time, the evils suffered from them and the loud complaints of neutrals, have caused various expedients to be resorted to for checking their excesses, while their use has been continued. The great increase and wider extent of commerce have added to the opportunities and the temptations for growing rich by this sort of authorized violence; and it has hitherto been found impossible to impose any effectual restraints upon forces of so low a character, and called into action by motives so unworthy and sordid.*

From this historical deduction, it appears, 1. That the practice of privateering is truly what it has been called, 'a remnant of the ancient piracy,' and has its root and origin in the general license of plundering, which we justly regard as the vice of a barbarous and lawless age. 2. That the public commissions, under which it is now carried on, were expedients adopted, when the world began to assume a more regular and settled form; the first step towards a state of society more consistent with reason and humanity. 3. That

* Immediately after the war of 1756 had commenced, the English privateers began to swarm in the channel, and to commit depredations upon the commerce of friendly nations. The Dutch complained, and in 1759 an act was passed, prohibiting commissions to any vessel under one hundred tons burthen and forty men. *Smollett's Contin. vol. 6. p.* 151—294.

at first, letters of reprisals authorized the seizing of goods on the land, as well as at sea.* 4. That the first notice we have of privateering to any considerable extent is the measure, to which in the outset of the war of the Netherlands, poverty and revenge drove the Prince of Orange; and that these privateers became notorious for their piratical depredations. If before that it was practised by the French, it was not under circumstances more honourable, nor with less cruelty. 5. That the practice has always continued to answer well to its original; privateers having been, in earlier and later times, the 'scourges of neutral commerce,' a continual theme of complaint to neutral powers, the causes of new wars, subjects of negotiation in treaties, and of frequent restrictive laws; but still eluding all attempts to put a stop to their abuses, and reverting to their primitive character.

It is now time to turn our attention for a moment to the practice of war upon land, and here we are at once struck with a strange difference in conduct and opinions. It would seem, that while we have been growing more refined and generous in hostilities by land, we have certainly not improved, and it is to be feared, have even become less attentive to considerations of equity and humanity, in our maritime warfare. We can claim, in this respect, no superiority over the men of two centuries ago. Like them, we set upon the peaceful merchant to rob him of his property, and if those, to whom he has entrusted it, defend it faithfully, we suffer no tenderness for life to keep us from our booty. On the land, do we ever hear of an honourable commander's delivering up to pillage a captured city, unless induced by some extraordinary violation of the rules of honourable warfare in the enemy? Does he ever seize the merchandize of the inhabitants or disturb them in the exercise of their trades? Why, then, on the sea should captured ships and the goods they are freighted with, pursuing peacefully their course, and engaged in the useful interchange of the products of different lands, become a prey to the rapacious cruiser? The most, that is allowed upon the land, is the exaction of a tribute, and even of this, we suspect the instances are becoming rare, and it is regarded as somewhat disgraceful. But if even the commander of an

* See letters granted by Edward I, ante, p. 175, and the form in Rymer, tom. iv. part 1, p. 161, French ed.

invading army forbears to touch any property, but that of the sovereign, what should we say, if bands of private adventurers were commissioned to enter the enemy's borders to rob and pillage for their own profit? Should we not regard it much in the same light, as we should the use of poison, or assassination, or infernal machines?*

How, then, shall we reconcile this inconsistency? A late writer has, we think, given the true account of it. The jealousy of commerce has entered much into all the wars between maritime countries from the time of Cromwell's war with the Dutch. To exhaust the commercial resources of the enemy, and so to cripple his trade, that he may not be able to resume it upon fair terms of competition, when peace shall be restored, has been one of the objects proposed by one or the other of the belligerent powers. Privateers, as the most destructive assailants of commerce, have for this cause been encouraged and protected, and the exemption granted upon the land to the property of peaceful subjects has been denied at sea. 'From thence arises that striking inconclusiveness,† [inconsistency] which has been so frequently declaimed against, that, whilst in wars on the continent, the civilized nations of Europe (so long as they do not betray that character) endeavour to make the burthen of it fall as lightly as possible on the peaceable subjects of the enemy, and that they respect their property in consideration of a contribution levied, by authorizing *pillage* only in some extraordinary cases, the barbarous practice has been retained, in maritime wars, of depriving hostile subjects of their ships and their cargoes, by prohibiting now, almost universally, the acceptance of a ransom.'‡ *Martens on Privateers*, p. 22.

That some cause, like that here suggested, has retarded the progress of civilization in the customs of maritime war,

* As to what are unlawful arms, see Martens, Precis du droit des gens, t. ii. p. 351, and also as to the difference in the rules respecting property on land and at sea.

† We copy from the English translation, published in 1801.

‡ It appears that in Holland, by an edict of the Earl of Leicester, of 4 Apr. 1586, all captures, whether by land or sea, were brought before one tribunal, and the counsellors of the states of Holland, formerly, as appears from their ancient forms in 1590, adjudged upon the plunder obtained by the soldiers on the land. But, says Bynkershoek, 'I do not find this in their new form, 4 Oct. 1670, nor is it observed in practice.' *Quest. Jur. Pub.* lib. i. cap. 18.

can hardly be doubted, when we consider how many of the most distinguished writers, ancient and modern, have declared their disapprobation of the practice of privateering. To begin with Albericus Gentilis, who was professor of law in one of the English universities, from the year 1582 to his death in 1608. Privateers, as we have seen, had then first begun to be used to any considerable extent, and to be recognized by stipulations in treaties.* Gentilis, in his book *de Advocatione Hispanica*, speaks of them under no other name than 'pirates,' and will not admit them to be entitled to any better consideration. Grotius says, it is worth inquiring, how far the right of private captures may be carried, without violating internal justice or charity.† And after showing that by the law of nature no injustice is done to the enemy, if the plunder be confined to a compensation for the injury which caused the war, he adds, that 'although justice, strictly speaking, may not be violated, yet there may be an offence against that moral duty, which consists in loving others, as by the law of christianity we are especially commanded; as if it should appear that such depredation will fall, not upon the hostile commonwealth, or the sovereign, or those, who are in themselves guilty, but upon the innocent, and that it will reduce them to such a measure of distress, as it would not be lawful for us to inflict even upon our private debtors. But if, in addition to this, such depredation will neither be of great effect in putting an end to the war, nor in cutting off the enemy's strength, then indeed an honest man, and more especially a christian, will scorn to profit by the calamity of the times.' *Lib.* 3, *cap.* xviii. § 4. From this and other passages of Grotius, it cannot be doubted, in what light he regarded privateering, as in fact carried on. We have already quoted the opinion of Clarendon, than which none can be entitled to greater respect. The treatise of Molloy *de Jure Maritimo*

* Bynkershoek, Q. J. P. lib. i. cap. 18, seems to refer the origin of privateering to the war of the United Provinces with Spain, for he mentions no earlier instance. 'Olim in Belgio Fœderato fuerunt privati, qui ipsi naves bellicas exercebant, quibusque, præter premia, ex captis et recuperatis navibus redacta, ex publico ærario numerabatur certa pecunia pro modo expensarum, et pro modo temporis, quo operam bellicam præstabant. Illæ naves privatorum dicebantur *Kruyssers*, iisque adversus Hispanos cum maxime usi sunt Ordines Generales.'

† Id vero quatenus procedat, illæsa justitia interna et charitate, non immerito quæritur.' Lib. 3, cap. xviii. § 2.

was first published in 1676; many editions have been published since that time, and its reputation is deservedly great. 'Most certain,' says this writer, 'these sorts of capers or privateers, being instruments found out but of later ages, and 'tis well known by whom, it were well they were restrained by consent of all princes; since all good men account them but one remove from pirates, who, without any respect to the cause, or having any injury done them, or so much as hired for the service, spoil men and goods, making even a trade and calling of it, amidst the calamities of war.' *Book* 1, *ch.* iii. § 15. The compilation, entitled 'Sea Laws,' was published early in the last century. We find in it this passage, 'Our laws take not much notice of these privateers, because *the manner of warring is new and not very honourable*, but the diligence of our enemies in this *piratical way* obliges us to be also as diligent for the preservation of our commerce.' p. 472. So Beawes, whose Lex Mercatoria was compiled in 1750, 'The use of these sort of vessels we were taught by our neighbours, and obliged by their example to encourage them,' &c. p. 207. Loccenius, who was professor at Upsal in 1670, seems, like Gentilis, to have known no distinction between privateering and piracy. His words are, 'When a naval war is unavoidable, it is far better to assail the enemy with domestic levies or hired marines, under officers and discipline, or to depend on the aid of allies, than to give license to pirates, the vilest of mankind, who, once authorized to plunder, soon forget all restraint, and spare not even friends, nor those, who have never injured them or their employers.'* If we come down to more modern times, we find Mably† and Galliani,‡ supporting the justice and expediency of exempting commerce from the calamities of war. But especially *Linguet*, whose essay we would quote entire, if it were possible, has exposed in the clearest manner the absurd contradiction in practice, to which we have already referred.§ 'It is,' to use his words, 'one among a thousand

* Sed et si belli maritimi necessitas incumbat, præstat delectis domesticis, aut militibus nauticis mercenariis, qui sub duce et disciplina degant, aut sociorum ope, quam colluvie pessimorum hominum, piratis, adversus hostes uti, qui licentiam spoliandi nacti, facile præscriptos fines excedunt; ut ne quidem amicis aut aliis, a quibus vel ipsi, vel eorum patroni nunquam læsi sunt, parcant.' *De Jure Mar. et Nav.* lib. 2, cap. iii. § 4.

† Droit Publique, tom. 2, cap. xii. ‡ Lib. 1, cap. 10.

§ See this able paper in Annales Politiques, tom. v. p. 518.

proofs of the confusion, barbarism, and extravagance of all our principles, of every sort. Whence comes this difference between fleets and armies, squadrons and regiments, corsairs and hussars?' He thus concludes a glowing description of the circumstances which pincipally give a character to privateering; 'It is cowardly, for its object is to attack the unarmed; it is odious, for it has no other principle than a base self-interest; it is barbarous, for the flying merchant-ship is compelled to submit by murderous broadsides; nor is it uncommon for a part of the crew, at the moment of striking the flag, to be slaughtered by the balls that brought the order for striking.' Martens has expressed himself in language not less clear and decisive. 'Glory and duty call an officer to fight the enemy, whenever the interest of his sovereign is concerned, and honour is the best reward for his labours and his dangers; it is not so with the privateer. Indifferent to the fate of the war, and often of his country, he has no other inducement but the love of gain, no other recompense but his captures and the prizes conferred by the state on his privileged piracies. To encourage individuals to fit out privateers at considerable expense, it is necessary to present them the allurement of a rich booty, and, by prescribing them a moderation, which they are fully determined not to observe, not to intimidate them by imposing on them too many restrictions.' p. 24. The opinion of Dr. Franklin we shall have occasion to quote hereafter. The apologists of privateering have, we believe, rested its defence on the sanction given to it by law, and have contented themselves with showing, that there is a real and substantial distinction between privateers and pirates. Azuni, one of the latest and most distinguished of these apologists, after mentioning the opinions of Galliani and Mably, adds, that he respects their opinion, and would adopt it, 'if he were speaking as a mere philosopher.'

It is wonderful, when we consider how much the commerce of neutrals has suffered from privateers, that more frequent efforts have not been made to put a stop to the practice by the general consent of nations. Our own history furnishes indeed a fact, which cannot fail to gratify the feelings of an American. 'As early,' says the Memorial before us, 'as 1785, the celebrated philosopher, Dr. Franklin, in a letter to a friend, observed, that "the United States, though better

situated than any other nation to profit by privateering, are, as far as in them lies, endeavouring to abolish the practice, by offering in all their treaties with other powers an article engaging solemnly, that in case of a future war, no privateer shall be commissioned on either side, and that unarmed merchant-ships on both sides shall pursue their voyages unmolested."' p. 6.* It was accordingly stipulated in the 23d article of the treaty with Prussia, in 1785, as follows :

'And all merchant and trading vessels employed in exchanging the products of different places, and thereby rendering the necessaries, conveniencies, and comforts of human life more easy to be obtained and more general, shall be allowed to pass free and unmolested ; and neither of the contracting powers shall grant or issue any commission to any private armed vessels, empowering them to take or destroy such trading vessels, or interrupt such commerce.'

Martens† has taken notice of this article, adding, that 'this example, worthy of imitation, has not been hitherto followed by other states.' Dr. Franklin, to whom, doubtless, the credit of this humane scheme belongs, has elsewhere expressed his opinion in emphatic terms. The author of the Appeal, mentioned at the head of this article, quotes a passage from the propositions relative to privateering, communicated by Dr. Franklin to Mr. Oswald, 14 Jan. 1783, in which the principal reasons of policy for abolishing the practice are forcibly stated.

'It is for the interest of humanity in general, that the occasions of war, and the inducements to it, should be diminished. If rapine is abolished, one of the encouragements to war is taken away, and peace therefore more likely to continue and be lasting. The practice of robbing merchants on the high seas, *a remnant of the ancient piracy*, though it may be accidentally beneficial to particular persons, is far from being profitable to all engaged in it, or to the nation that authorizes it. In the beginning of a war some rich ships, not upon their guard, are surprised and taken. This encourages the first adventurers to fit out more armed

* Letter to B. Vaughan, Esq.—Franklin's Works, vol. ii. p. 448.

† Essay on Privateers, p. 31, note.—The only instance of a similar attempt, mentioned by him, is that of the agreement between Sweden and the United Provinces, when at war in 1675, that neither they nor their allies should make use of privateers—but the agreement was not performed.

vessels, and many others to do the same. But the enemy, at the same time, become more careful, arm their merchant-ships better, and render them not so easy to be taken; they go also more under protection of convoys; thus, while the privateers to take them are multiplied, the vessels subject to be taken and the chances of profit are diminished, so that many cruises are made wherein the expenses overgo the gains; and as is the case in other lotteries, though particulars have got prizes, the mass of adventurers are losers, the whole expense of fitting out all the privateers, during a war, being much greater, than the whole amount of goods taken. Then there is the national loss of all the labour of so many men during the time they have been employed in robbing; who, besides spending what they get in riot, drunkenness, and debauchery, lose their habits of industry, are rarely fit for any sober business after peace, and serve only to increase the number of highwaymen and housebreakers. Even the undertakers, who have been fortunate, are by sudden wealth led into expensive living; the habit of which continues, when the means of supporting it cease; and finally ruins them: a just punishment for their having wantonly and unfeelingly ruined many honest, innocent traders and families, whose subsistence was obtained in serving the common interests of mankind.'

And in a letter to David Hartley, Esq. May 8, 1783.

'I do not wish to see a new Barbary rising in America, and our long extended coast occupied by piratical states. I fear, lest our privateering success in the two last wars, should already have given our people too strong a relish for that *most mischievous kind of gaming mixed with blood.*' *Private Correspondence, p.* 530—*Appeal, p.* 9.

The motives for abolishing this practice are so many, that we hardly know where to begin in stating them. If it were not in itself unjust and immoral, we would urge upon nations its inconsistency even with an enlightened policy; we would shew that it can never be productive of any real advantage to either party in the war; we would call to mind the many seamen, who are thrown by it into prisons, and thus taken from the service of their country;* we would speak of the difficulty of procuring sailors to man the fleets, or defend the

* It is said, that at the close of the war ending by the peace of Amiens in 1801, there were 30,000 French sailors in English prisons. (Bonnemant's D'Abreu, note, p. 27.) It is well known, what numbers of our seamen were thus lost to us for the time in the late war with England,

coasts from invasion, when they are lured by the hope of plunder to embark in long and distant cruises; we would insist upon the discouragement of the naval service by the higher privileges, which are granted to privateers; we would bring into view the loss of life, and the distress and poverty brought upon the families of seamen; we would ask for an instance, in which privateers can be fairly said to have given essential aid in the prosecution of the war, or to have produced any serious impression upon the enemy's resources and strength; we would refer to the ill will and jealousy excited in neutral nations by the vexation, to which their commerce is exposed from the eagerness of these marauders, and their unwillingness to return from a cruise, without some evidence of vigilance and success. Lastly, we would leave it to history to decide, and challenge the experience of every nation, that has employed privateers in war, whether on the whole the national strength has not been impaired, and its resources diminished, by this expense of its treasure and force in the pursuit of pillage.*

Let these considerations be duly weighed by those, who allow of no rule for the conduct of nations, but the greater or less profit to themselves or injury to their enemies, which this conduct may seem likely to produce. Let them reflect upon the words of Franklin, and remember that his opinion and his remarks were founded on experience acquired in a war, in which perhaps, if ever, privateering was a powerful means of annoyance in the hands of one of the parties. With those, who believe that the true interests of a nation can never be separated from a strict regard to religion and moral duty, there are other arguments of greater weight, than any which terminate in mere policy. With them it is enough to determine any action to be impolitic, to know that it is unjust.

What judgment then must we pass upon privateering, if we test it by the rules of a sound morality? We ask not, what will be its fate if judged of by the dictates of high and honourable feeling, of that elevated morality, which rises far above the ordinary sense of right and wrong, as it is found in the mass of men; we ask not that it should be condemned or absolved by the sentence of a nice and scrupulous conscience;

* The French editor of D'Abreu's treatise on Prize Law has strongly expressed the opinion, that it is a mistake to ascribe great efficacy to privateers in war. See note, p. 27. Bonnemant's translation.

we are ready to put the question fairly to the grossest and least reflecting of mankind, be they only honest and unperverted; and we doubt not, that when brought to view the subject in its proper light, stripped of the cloak, which law and custom may have lent to it, the most uncultivated conscience will pronounce it unjust and disgraceful to grow rich upon the spoils of the innocent, to gather by violence the fruits of another's industry. If upon the breaking out of a war every debtor should be declared released from debts due to the subjects of the hostile state, would that man be thought to possess common honesty, who would profit by such an advantage? But how much more palpable is the injustice of attacking, and bearing away as prize the property of that enemy, not found in our own territory, but upon the ocean, the common highway of nations? Let it not then be said, that the law of war has made it yours, and annulled the rights of its former possessor. This law is not the law of reason nor conscience. It is a custom, which has grown out of the selfish and revengeful passions of men, and has been handed down from age to age, receiving now and then some mitigations, by which it has approached nearer to what is suited to a rational nature, but still it is founded in violence, and only one of the few remains of the right of the strongest. Grant, that war is not in itself unlawful. Yet in a ruder age, than the present, it was said by one, who admitted the lawfulness of war, 'militare non est delictum, sed propter prædam militare, peccatum est.'* Of the justness of this distinction, who can doubt? It is the motive, which determines the character of the action. And what motive has the privateersman but plunder?†

* St. Augustin. Canon. Militare, 59, 1. 'It is not a crime to war, but to war for plunder is sinful.'

† In the letter before quoted of Dr. Franklin to B Vaughan, Esq *Works, vol.* ii. *p.* 447, are two instances of the judgment of an impartial conscience upon this subject. One of a quaker gentleman, who was part owner of a ship, which the other owners thought proper to fit out as a letter of marque, and which took several French prizes. He took his share of booty, but employed an agent to find out by advertisement who were the sufferers, that he might restore what had come to him. The other is of the Scotch presbyterians, who soon after the reformation made an ordinance of the town council of Edinburgh, which is still extant, 'forbidding the purchase of prize goods, under pain of losing the freedom of his burgh for ever, with other punishment at the will of the magistrates, the practice of making prizes being contrary to good conscience, and the rule of treating

Let us once more try this question by the principles of national law, as they are stated by Grotius and others, whose works are of acknowledged authority. It is in the first place to be observed, that there is no pretence of justice to support the practice of capturing private property in war, but what is founded on one or the other of the following principles: 1. That the wrong done extends to every subject of the injured state, and vests in him the same rights, as if that wrong were personal, and that every subject of the offending state is equally responsible in person and property for the injury done by his government, or a fellow-subject, as if he were personally guilty. 2. That each party in the war is to be considered, as it respects other nations, to have a just cause of war. 3. That the war being just, every subject, having the authority of his government, may pursue the enemy in all the modes of lawful warfare, and, if he do it at his own expense, may acquire property to his own use.*

But it is not, nor was it in the age of Grotius, pretended, that the right over the person and property of the enemy is unlimited. And, if we mistake not, these limitations will be found to be established as a part of the national code: 1. That the right to kill is limited to cases of extreme necessity, for the preservation of life and property, 'and even this last,' says Grotius, 'to put men to death for the sake of perishable and uncertain possessions, though in strictness it may stand with justice, is irreconcileable with the law of charity.' 2. That even in a just war, if more is taken than an equivalent for the debt, or the injury, it is either unjust, or else it is to be kept by way of pledge or security, without any change of property, and to be restored when justice has been obtained. *Grot. lib.* 3, *cap.* xiii. § 1. 3. That certain classes of persons, among whom are cultivators of the earth and *merchants*, are to be spared. *Lib.* 3. *cap.* xi. § 10, & *cap.* xiii. § 4. 4. That where the object of the war is to obtain restitution of what belongs to us, all the subjects are to be considered as sureties one for another; but where the object is to pun-

christian brethren, as we would wish to be treated, and such goods are not to be sold by any christian men, within this burgh.' This, it will be remarked, extends to all captures.

* Grotius, lib. 3, cap. vi. Puffendorf, lib. 8, cap. vi. De jure nat. et gent. Lib. 2, cap. xvi. § 10 et seq. De officio hom. &c. Martens, Droit des gens, liv. 8. chap. iii.

ish, none but the magistrates, who have refused to inflict punishment themselves, and the actual offenders, can justly be made to suffer. *Lib.* 3, *cap.* xiii. § 1. 5. That the right of recourse to the goods of the innocent is only subsidiary, and humanity requires that we should not make use of it as long as there is a hope of obtaining justice without it. *Lib.* 3, *cap.* xiii. § 4. 6. That we have no right to lay waste or destroy, unless with the design and reasonable hope of thereby promoting peace; and that if the same purpose can be otherwise effected, we have no longer this right.*

Now all these principles are violated by the practice of privateering; it assumes a right to kill, not for defending, but to obtain property; it has no regard to the injury done, but seizes whatever falls in its way, and that, not for the use of those who may have suffered from the depredations of the enemy, but for the profit of those concerned in the cruise; it has nothing to do with restitution, but takes with no other intent, than to enjoy a *plenum dominium* over the thing taken, be its value ever so great; it spares no class, much less the merchant, against whom all its attacks are directed; it regards all the enemy's subjects as game to be hunted, without any concern who may have been the authors of the war; it hears to no distinctions between innocent and guilty, debtors and sureties, primary or subsidiary rights; it understands nothing, but that as much wealth is to be gotten, as can be with impunity.

It would be easy to enlarge upon some of these topics, but the unexpected length of this article obliges us to abridge the argument. The distinction between those who bear arms, and those, who are engaged in peaceful occupations, and the principle, that the latter are to suffer no more of the evils of the war, than may be absolutely unavoidable, are now universally recognized. It is only in maritime warfare that they are not adopted in practice. The exemption, as it prevails in hostilities by land, comprehends all those, whose occupations are of a peaceful sort: 'quorum quæstus pacem amat, non bellum.' It extends, of course, to those, whose business it is to supply by a mutual interchange the wants of different countries. How it should happen, that the moment the merchant embarks his property upon the ocean; the moment

* Martens. Precis, &c. tom. ii. p. 349.

he begins to exercise his trade in the very way, in which it yields most benefit to the world, he loses the protection of all laws, and meets the same treatment, as to his property, with the pirate, whose ship is loaded with the gains of violence and treachery, is indeed unaccountable upon any supposition consistent with fairness and equity. 'The canon,' says Grotius, in enumerating the exempted classes, 'adds also merchants; not merely those, who have a temporary residence in the enemy's country, but those who owe him perpetual allegiance, 'nam et horum vita ab armis aliena est.' Many of the opinions we have quoted go to the entire neutrality of commerce; and this would be only extending to the sea the humane principles long since adopted on the land. The article already cited from our treaty with Prussia has been understood, as giving protection against public as well as private ships.* Many of the evils connected with privateering are equally to be feared from public captures; the effects upon the habits and morals of seamen will be nearly the same; the cruelty and injustice are the same. A French writer of the year 1744 has asked, 'would it not then be possible to revive the ancient custom of commercial truces, and to make war, without involving in it commerce and mercantile navigation?'† It may be objected, that the greater the sufferings connected with wars, the less ready will nations be to enter into them, and the sooner will they be disposed to return to a state of peace. But surely the experience of the world is against this. Wars were not less frequent, nor less obstinate, when it was thought lawful to enslave prisoners, to sack towns, and to put to the sword a garrison, which defended itself to the last extremity. The argument would justify every degree of cruelty, it would justify the poisoning of streams and the employment of assassins, it would introduce a law of war no better, than that of the Mohawks. But if to make prize of the property of the innocent is in itself opposed to equity and good conscience, it deserves a double reproach, when it is allowed to be done by privateers. Powers, in their nature oppressive, ought not to be committed to instruments so certain to make them more odious by abuse.‡ A Russian treaty of 1801§

* Martens, Precis, &c. tom. ii. p. 352, note.

† Examen de l'Essai sur la Marine, p. 181.

‡ Jus hoc mutandi per vim dominii odiosius est, quam ut produci debeat. *Grotius, lib.* iii. *cap.* 6, § 5.

§ Convention with Great Britain, June 17, 1801, art. 4.

prohibits to privateers the right of searching ships sailing under convoy. This cures some part of the evil, and it shows the light, in which privateers are viewed. But the same reason should induce the entire suppression of them.

In all that we have hitherto said, we have gone upon the supposition, that there is a just cause of war. But in every war one party or the other must be fighting in support of an unjust cause. Terrible indeed is the guilt of the subject, who, with no other end than private gain, attacks, kills, and robs the enemy, if in doing this he is at the same time abetting injustice and fraud. Grotius holds to complete restitution every general and soldier, who in an unjust war has assisted in the work of destruction. *Lib.* iii. *cap.* 10, § 3, &c. Who, then, in any war, can feel so assured, that his country is in no respect chargeable with injustice or rashness, as to be willing, for the sake of plunder, to incur the hazard of so great a guilt? What government can be excused in encouraging its subjects to put their integrity to so perilous a trial? And if there is guilt in fighting for a cause, which we know to be unjust, is there not also guilt in plundering in one, which we are not sure is just?

We had something to say of the effects of privateering upon the morals of the community, and more especially of seamen; of the taste, which it gives for violence and bloodshed; of its breaking down the barriers, by which property is defended; of its tendency to annihilate the distinction of mine and thine. But these consequences are too obvious, and have been proved by too recent experience, to need that we should labour to enforce them. They spring up in our path; they meet our eyes, wherever we go; the land and the sea send forth their reports of murders and piracies and daring robberies, as if the outcasts of society had become emulous of glory, and resolved to hide the disgrace in the magnitude and boldness of their crimes.

It is the laudable purpose of the writer of the Appeal, to call the attention of the proper authorities in the United States to the numberless depredations committed upon the ocean by ships fitted out in our own ports, and sometimes, it is to be feared, by our own citizens. He has diligently collected the statements of writers on the laws of nations, and the provisions of the British and French laws in relation to piracies, and the accepting of commissions from foreign powers; and

he has reviewed our own laws for preventing armaments against nations at peace with us, pointed out their insufficiency, and endeavoured to awaken attention to the importance of new restraints and prohibitions, and a more vigilant and thorough execution of those already existing. For all this he deserves the thanks of the public. Whatever may be thought of cruising against the enemies of our own country, there are few, we trust, who will not agree with Vattel, 'that for strangers it is a shameful trade, to take commissions from a foreign government, for cruising against a nation perfectly innocent in regard to them. The thirst of gold is their only motive, and the commission they receive, however it may screen them from punishment, cannot wipe off their infamy.'* It is agreed by all nations, that a cruiser furnished with commissions from two different sovereigns, is to be treated as a pirate. Much of the reasoning in support of this principle would extend equally to the acceptance of any commission from a foreign belligerent against a nation at peace with us.†

The Memorial, of which we have also spoken, contains a concise and impressive view of the character and consequences of the practice of privateering. It was our intention to avail ourselves of one or two extracts from it, but we have already exceeded our limits.

It may be expected, that we should say something of the practicability of the measure proposed. We must, however, content ourselves with remarking, that there cannot be reason to despair of what all commercial nations must feel it to be their interest by mutual stipulations to effect. The United States, as a great commercial people, disposed by habit and interest to peace, have every inducement, however great may be their local advantages for carrying on a predatory warfare, to enter into such an arrangement. Great Britain can expect no benefit from the continuance of the practice of privateering. Holland, France, and Spain have too much interest in the revival of their fallen commerce not to acquiesce cheerfully in a proposal, which takes away one of its greatest vexations. Russia, Sweden, and Denmark are friends to the freedom of commerce, and it is a remarkable and encouraging

* Vattel, liv. 3, ch. 15, § 229.

† See, as to double commissions, D'Abreu, part 2, p. 2. Bonnemant's translation.

fact, that Russia made no use of privateers in the Archipelago, in her war with Turkey, 1767—1774.

We are disposed to think well enough of mankind, to believe that there is something in this practice too harsh and illiberal to be much longer born, in the present improved state of knowledge and manners. We trust, the time is coming, when the greater part of the civilized world will feel the truth of these words of Clarendon: 'Indeed, it must be a very savage appetite, that engages men to take so much pains, and to run so many and great hazards, only to be cruel to those, whom they are able to oppress.'*

* Tracts, p. 206.

ORIGINAL MISCELLANY.

EXAMINATION OF SOME REMARKS IN THE QUARTERLY REVIEW ON THE LAWS OF CREDITOR AND DEBTOR IN THE UNITED STATES.

The Quarterly Review for May 1819 contained two articles concerning the United States; one a review of Fearon's* book of travels, and the other a review of Mr. Bristed's book upon the resources of America. The Quarterly Review is, as every body knows, extensively circulated, and much read in this country; and these articles excited, at the time of their appearance, no small degree of attention. It would be difficult, we imagine, in the same number of pages, to crowd more misrepresentation, or betray more ignorance, than appears in these articles, especially that which we have first mentioned. To the common vapourings of the English presses we pay little attention. These oracles are no more to be regarded, in their vituperations of the government and people of this country, than similar oracles among ourselves, in *their* abuse of the government and people of England. The leaders of such assemblages as the Manchester mob, and the orators in the palace-yard, find it convenient to inflame the passions of their auditors by declaiming, in terms of high panegyric, of the condition of America; wisely contriving, by a sort of contrast, to breed discontent, and to sharpen the feeling of hatred towards their own government. Other speakers and other writers, finding or thinking it necessary to refute these representations, naturally enough run into opposite extremes, and set off their own condemnation and abuse of America against the extravagant encomiums of their adversaries. All this is in the course of things. It is no more than must always be expected, in a country with such a gov-

* The last that we have heard of this *author* is, that some time last winter a criminal information was moved for against him, in the King's Bench, for a conspiracy to produce a riot, at the election of the Lord Mayor.

ernment, as that of England; and it is of no consequence to us, what is the issue of this little and low strife of temporary politics. We suffer about equally by the commendation of one party and the abuse of the other; and we ought to be regardless of both.

But different, far different, is the case, when a work of established reputation in the literary world professes to discuss our character and condition. When gentlemen and scholars undertake to write about us, we have more interest in what they say, and are less disposed to acquiesce in misrepresentation and injustice. The writers of the articles in question seem to consider themselves as speaking *about* America, but not *to* America. They do not take the United States into the account of those who are to read their works, and judge of them. They do not look at the reading and thinking men on this side the Atlantic, as forming any part of that great tribunal of the PUBLIC, to which they acknowledge a responsibility. In this respect, in our humble judgment, they commit an oversight. English scholars, English editors, and English politicians have heretofore felt an unconquerable reluctance to admit the people of this country to a participation of those honours which belong to the civilized world, and the great family of christian communities. They have been unwilling to see that North America has ceased to be a colony; and still desire to regard her, so far as respects acquirements, talents, and character, like Jamaica, Malta, or the Cape of Good Hope. This attempt, we may be allowed to say, will not succeed. America is entitled to her place among the nations, and nothing can keep her from it. It is in nature, as it appears to be in the purpose of Providence, that a people shall, within a short period of time, exist on this side the ocean, speaking the English language, springing principally from English origin, adopting English laws, and possessing the invaluable blessings of English institutions, so numerous, that the amount of British population, added or subtracted, would hardly make a sensible difference. Already the United States contain as many people as England, and among them there is, if not as full, yet as respectable a proportion belonging to the reading class. Whatever appears in England, and attracts attention there, in the departments of science, literature, poetry, or politics, appears here also, thirty days afterwards, with uniform regularity. We receive

these reviews wet from the press, and read and reprint and circulate them. We venture to say, that in no part of the island of Great Britain, London excepted, is reading so general among the population, as in New England. Having thus, as we believe we have, in the United States, a larger reading community, than either Scotland or Ireland, how is it, that America is not to compose a part, and an important part, of that PUBLIC, before which a scientific and literary journal, composed and published in the English language, is to stand in judgment? We would modestly, but firmly, insist on this reasonable participation in the authority and dignity of public opinion. We hold the right, and mean both to exercise and to defend it, of having and of expressing opinions on subjects of science and literature, and respecting those who discuss these subjects.

It is a natural prejudice, that an old country should be unwilling to admit a young one upon any terms of equality. England herself is not thought old enough, nor respectable enough, to assume the port and bearing of an equal in the celestial empire of China; and there is elsewhere, as well as at Pekin, a dislike and scorn for the *novi homines*. English politicians and English scholars entertain toward us, when we press for admittance into their society and fellowship, something like that feeling, at once scornful and jealous, with which the Earl of Wharton addressed the twelve new peers in the reign of Queen Anne. Yet this prejudice and this reluctance must give way; this scorn must be subdued, and this jealousy, if it be not, as it ought to be, eradicated, must become silent.

We, of the United States, have numbers and power and wealth, and a growing commerce, and a most extensive country, and, as we may think without vanity, some portion of that intelligence and spirit, which belongs to our more cultivated neighbours. Once for all, then, if we can express ourselves in such a manner as not to incur the imputation of arrogance, we wish to say, that we consider ourselves as forming a part, and a respectable part, of the great public of civilized and christian nations, having an interest in such subjects discussed before that public, as are not in themselves local or peculiar; with a good right of contribution, as far as our ability admits, to those discussions ourselves; and above all, a right to fair dealing and gentlemanly treatment

from all who profess to write for the good of this public, and to be answerable to its judgment.

We put forth this claim in behalf of our country; and in behalf of the informed and reading class of its citizens. It is for the English writers to say, not whether it shall be admitted, that question we do not refer to their arbitrament, but whether, on their part, it shall be admitted freely, and with courtesy; or with hesitation, reluctance, ill nature, and ill manners.

We have space at present to take notice of one only of the topics, discussed in these articles. It relates to the American law of *creditor and debtor*; about which the reviewer has published extracts from Mr. Bristed's book, with comments. Mr. Bristed is an Englishman, by birth and education. He has lived, as it appears, for some time in the city of New York, and has published a book upon the resources of this country. Some observations were made on that work in a former number of this journal. Referring to these observations, we have now only to say of Mr. Bristed's general character, as an authority, that he is beyond ordinary measure destitute of all accuracy and precision. There are, of course, many important facts collected in his book, and a mass of extracts from public documents, in some degree useful, perhaps, to those who do not possess the same matter in a better form; but his own opinions, and inferences, and observations upon manners, are not to be received but with great allowance. Mr. Bristed never speaks with any qualification. He has little general, and no intimate knowledge of the state of things in this country, and he speaks only from what lies within his own immediate and confined observation. With him all peculiarities are general truths, and all exceptions become rules. We have hardly patience with a man, who could write such a paragraph, as the first, quoted from his book, in the article in the Quarterly Review, which we beg leave to transcribe again, and to proceed to make some remarks upon it.

'The laws of this country generally favour the *debtor* at the expense of the creditor, and so far encourage dishonesty. The number of insolvents in every state is prodigious, and continually increasing. They very seldom pay any part of their debts, but get discharged by the state insolvent acts with great facility, secrete what property they please for their own use, without the

creditor's being able to touch a single stiver. There is no bankrupt law in the United States, and no appeal, in these matters, to the Federal courts; whence in every state the insolvent acts operate as a general jail delivery of all debtors, and a permanent scheme, by which creditors are defrauded of their property. The British merchants and manufacturers, who have trusted our [*our?*] people, doubtless understand this.'

He adds, 'that in a single city, New York, more than six thousand of its inhabitants were declared insolvent in one year.'

Now in the first place, almost every matter of *fact*, asserted in this paragraph, is stated incorrectly and untruly. It is *not true*, that in every state the insolvent laws operate as a general jail delivery of all debtors; there being, in a majority of the states, no insolvent laws at all.

It is *not true*, that there is no appeal in these matters, to the Federal courts; on the contrary, there is an appeal, in all cases, from decisions in the state courts, on the insolvent laws of the state, to the supreme court of the United States; an appeal, which exists not only theoretically, but practically, and has been resorted to often, and with effect.

It is *not true*, that the number of insolvents, meaning such as have been discharged under statute provisions, is prodigious in every state, and increasing. In most of the states, as we have observed, there are no such laws, and of course no 'prodigious numbers,' who have been, or who can be, discharged under such laws.

Having now shown how destitute of all correctness and all *truth* is the foregoing paragraph from Mr. Bristed's book, we proceed to describe the real state of the case.

At the formation of the present government in 1787, it was provided by the national constitution, that Congress should have power to establish uniform rules on the subject of Bankruptcy throughout the United States. This power was not exercised until 1778, when a uniform system of Bankruptcy was established by act of Congress. It met with great opposition, arising in a great variety of motives, and was repealed four or five years afterwards. It is, no doubt, to be lamented that a fair experiment was not given to this law. It is a subject on which it seems necessary that there should be some legislative provision; and notwithstanding the

frauds which will be, and are committed under Bankrupt laws, even well administered, and which have led such men as Lord Eldon, and Sir Samuel Romilly to express doubts of their general utility, yet we know not any other mode of providing for the cases continually arising in commercial societies, and which call loudly for some provision. After the repeal of the law, however, individual states, acting upon the supposition that as Congress had not exercised the power, or had discontinued its exercise, of establishing a general law, for the whole country, they had a right to provide insolvent laws, as a part of their own local legislation, enacted such laws, and gave them operation. Among others, the state of New York passed an insolvent law, in the year 1811, and, as was to be expected, in the first year of its operation, many discharges were obtained under it. It was found that this law not only gave too great facilities in obtaining discharges, but that it led also to fraudulent applications from debtors, coming from other states. The law was repealed, we believe, within a year after its enactment; and it was, we suppose, during the period of this very short and extraordinary act, that Mr. Bristed finds his six thousand discharged in one year. Here then is a single act, from which a general law, and a general practice, is unhesitatingly inferred. 'The British merchants and manufacturers who have trusted our people doubtless understand this.' Does Mr. Bristed mean that the credit of American merchants is not good, in England? It would be new to us, indeed, to hear such a remark. Surely never was, not only all due credit, but all undue credit more easily obtained, than by the American merchants, for British manufactures.

The flippant and off-hand remark, that the laws of this country generally favour the debtor, at the expense of the creditor, is grossly incorrect, and can hardly be pardoned. There may be, among the state legislatures, an occasional relaxation, but to say that the general scope of the laws of this country is to favour the debtor at the expense of the creditor, is absolutely untrue, and calumnious. We still hold in almost, if not in every state, to the imprisonment of the person for debt; we still hold every man, to be in law capable of paying to the uttermost farthing; and therefore we apply the old principle, *solvat per corpus, qui non possit crumena.* We discourage marriage settlements, and family

settlements, to an extent, in the opinion of some, far too great; even lawgivers and tribunals all look with jealousy on trusts and entailments, and all the various modes of tying up estates, and rendering them unalienable; and all this simply from respect to the rights of creditors.

In most of the states also, the fee simple of the debtor's estate may be taken, to satisfy the creditor; and lastly, we hold, that whatever laws the individual states may pass respecting insolvents, such laws, if they in any manner impair the validity of contracts, are absolutely null and void. We have from the first introduced and maintained this great and salutary, and protecting principle in the fundamental articles of the national government; and yet Mr. Bristed can say, and the Reviewers in England can believe, that in this country the laws are generally made to favour debtors at the expense of the creditors! Every well informed man knows the difficulty of legislating on the subject of insolvents; and none better than the eminent living judicial characters in England. We now speak of the *insolvent laws*, as distinguished from the bankrupt laws; since the insolvent laws which individual states have sometimes enacted in this country, resemble the *cessio bonorum* of the civil law, and the insolvent laws of England, much more than the bankrupt system of that country.

We wish, before gentlemen in England give credit to such loose calumnies as this of Mr. Bristed's upon the laws for the relief of insolvent debtors in the United States, they would attend to their own case, and to the difficulties which they themselves have experienced on this subject. This would, we think, give some moderation to their fault-finding, and some measure to their language of rebuke. We wish they would consult Lord Eldon, Lord Redesdale, Lord Aukland, Mr. Sergeant Runnington, the late, and Mr. Reynolds, the present judge of the insolvent debtors' court, upon the unavoidable obstacles, and difficulties which lie in the way of uniting on this subject the just claims of creditors, with due compassion for honest but unfortunate debtors. When they have done this, we shall hear, with somewhat more patience, what they may see to find fault with, in the systems adopted by their neighbours.

It is well known that it has been the practice of Parliament to grant occasional relief to such insolvent debtors, as do not

come within the provision of the bankrupt laws. And it being thought expedient to make a permanent provision on the subject, Parliament passed the act 53 *Geo.* III. *chap.* 102. This act, we believe, was drawn by Lord Redesdale, a man of the highest legal eminence, and of great experience. It has sixty sections, and appears to have been prepared with the utmost care and solicitude, in order that it might prevent, on the one hand, the harsh and unfeeling confinement of honest debtors, and on the other, the practice of fraud by the dishonest. This act was limited to November 1818, and to the end of the next session of Parliament. The powers and duties of the act were to be exercised and discharged by a judge, or commissioner, who should be some 'fit person, being a barrister or lawyer of six years' standing at the court,' and Mr. Sergeant Runnington was appointed to this office. We have already said, that the act contained all the provision which could be thought of, to prevent fraud on the one hand, and cruelty on the other; an application to be discharged was to be accompanied with an offer to assign all his property, excepting wearing apparel, bedding, and tools of his trade, never exceeding in all twenty pounds; and there must be annexed to the petition a schedule of property and effects, and another of debts due by the prisoner, and the prisoners' oath to the truth of these schedules; and every creditor to be served with a copy of the petition and schedule, and notice inserted in the Gazette, and other newspapers, and creditors to have a right to appear and to put any questions to the prisoner, touching his conduct under oath; and assignees to be appointed to receive his assets, books, &c. of all sorts; and then the court, after all, may annul his discharge if it shall appear to have been obtained by fraud, or revoke it, if it afterwards appear that he has ability to pay his debts. The assignees are required to get in effects and debts, and make distribution at the end of three months, &c. with proper penalties for perjury; with a train of exceptions, such as attorneys embezzling money, persons getting money on false pretences, &c. who are not to be allowed the benefit of the law.

Here then is a law for the relief of insolvent debtors, fully considered, and deliberately passed, guarded by all practicable securities, and limitations, and placed under the administration of a competent and learned court; and what is found to be the result? The law was to expire in July last, at the

end of the last session of Parliament, unless continued by another act. To prevent this continuing act, very numerous and very respectable petitions were laid on the table of the Lords and Commons. Innumerable and intolerable frauds were alleged to have been perpetrated in the cases arising under the act. A committee of the House of Commons reported, if we mistake not, 'that during the whole duration of the law, and out of the prodigious number of cases in which debtors had surrendered their property, and been discharged, there had not been received above a penny in the pound upon the average of the debts discharged.' This we quote from memory, but our statement is sufficiently exact for our purpose.

We have thus alluded to the experience of England on the subject of insolvent debtors, not by way of an idle retort, but to expose the intrinsic difficulty of the subject, and to shut up the mouths of half-informed, superficial and self-sufficient scribblers and rebukers, on both sides the Atlantic. Would it not be wrong from the facts which we have stated to infer a plausible case of enormous fraud and corruption against English justice? If we were to try our hand at such a paragraph as Mr. Bristed has written and the Quarterly Review has cited against us, might we not say, 'England is not a country for a man to recover his debts. All her merchants, who are debtors, are provided for, by what she calls her system of Bankruptcy, a stupendous system, which many of her most eminent lawyers have been honest enough to confess was productive of unmeasured fraud and injustice; and as to all the rest of her subjects who may owe any thing, there is the insolvent debtors' court, where any body may be discharged; and of this court it is enough to say, that during all its existence, although no man can be discharged without surrendering all his property, which the law says shall go to his creditors, yet in truth no creditor ever gets any thing. How much the officers of the court get, we do not know; and what becomes of that part which they do not get, we do not know, but we do know that the creditor gets nothing.' We forbear. It is hardly fit to write such paragraphs, even for the mere purpose of shewing how easily they may be written. It is a dangerous curiosity to commit sins, only to learn or to show with what facility sins may be committed.

An act of the last session of Parliament was intended, we believe, to have continued the insolvent debtors' law to the

present session. Owing to mistake, however, the purpose was not effected, and the law is supposed to have expired, and proceedings under it are for the present discontinued. The subject, however, is before Parliament, and it will give us unmixed pleasure if the English Government shall be able to adopt such legislation on this equally important and difficult subject, or shall satisfy the necessities of its own case, and afford light to the lawgivers of other countries. In the mean time let it not be understood that the law of creditor and debtor is in a worse state for the creditor in this country than in others. As before observed, some of the states may have occasionally departed, and may still occasionally depart from the dictates of enlightened wisdom on this subject, from a disposition to relieve hardship, and from a vain and illusory hope of finding, in mere remedial legislation, a relief against the pressure of the times, and the stagnation of trade. But the general scope and tendency of our laws is to give creditors full and ample remedies, and to render property of all sorts convenient for debts. We may say, indeed, that there is no country in the world, in which a regard for the rights of property is more likely to prevail; for in no country was property ever so equally diffused, or was so great a portion of the numerical population interested directly in the laws which protect it. We look upon this so equal distribution of property, and to the regard paid to the rights of property in this country, as the great safeguards and security of the Commonwealth. Almost every man among us is interested in preserving the state of things as it is; because almost every man possesses property, and while he cannot see what he might gain, he sees clearly what he might lose, by change. We think we may perceive here a fair ground of belief in the preservation of our republican forms of government. It is not less the language of reason than of experience, that property should have influence in the state, whenever such a state of things exists, as that military fame is not supreme. If the tendency of the laws and institutions of society be such, as that property accumulates in few hands, a real aristocracy, in effect, exists in the land. This is not a merely artificial, but a natural aristocracy; a concentration of political power and influence in few hands, in consequence of large masses of property having accumulated in such hands. There is not a more dangerous experiment than to place property in the hands of one class, and politi-

cal power in those of another. Indeed such a state of things could not long exist. We have seen something like it in the ancient noblesse of France, in relation to whom the attempt seemed to be to make up, in positive power, or artificial distinction, what was wanting in the natural influence of property and character. The generality of these personages with all their pretensions to rank, and all their blazoning of heraldry, were infinitely inferior in respectability, and in just influence in the state, to hundreds of the untitled but independent landholders of Great Britain. It will be disastrous, indeed, for this latter country, whenever a separation shall take place between the influence, the indirect, but the natural and salutary influence of property, and political influence, or political power. They would not, and as we have already observed, in the absence of direct military despotism, cannot be long separated. If one changes hands, so will the other. If the property cannot retain the political power, the political power will draw after it the property. If orator Hunt and his fellow labourers should, by any means, obtain more political influence in the counties, towns, and boroughs of England, than the Marquis of Buckingham, Lord Stafford, Lord Fitzwilliam, and the other noblemen and gentlemen of great landed estates, these estates would inevitably change hands. At least so it seems to us; and therefore when Sir Francis Burdett, the Marquis of Tavistock, and other individuals of rank and fortune, propose to introduce into the government annual parliaments, and universal suffrage, we can hardly forbear inquiring whether they are ready to agree that property should be as equally divided as political power; and if not, how they expect to sever things, which to us appear to be intimately connected.

These speculations, however, are beside our present purpose. We mean only to say, that, in the present state of the world, wherever the people are not subject to military rule, the government must in a great measure be under the guidance of that aggregate of indirect but salutary influences, of which *property* is an essential ingredient; along with other ingredients, doubtless, of intelligence, public spirit, and high and fair character. And that as in this country almost the whole people partake of the blessings of property, so must they also partake in the desire to protect property, and of course in the laws which furnish that protection. The evils and difficulties which exist among us, in regard to insolvency,

belong to the subject itself, and are not confined to our community. The highly commercial state of the world has elevated two subjects of legislation, in our day, to a very great degree of importance. One respects the prevention and punishment of those crimes which are committed on property, such as theft, forgery, &c. which have increased, in late times, far more than the more violent offences, such as murder, and assault, and the other crimes which spring from passion, revenge, or cruelty. The other respects the provisions necessary to be made relative to insolvents, and the proper degree in which there may be a mitigation, in certain cases, of the ancient rigour of imprisonment for debt. These important subjects are full of inherent difficulties. None of the ancient codes furnish examples which can be safely followed, because such a state of society as exists now existed in none of the ancient states. The systems adopted among the modern nations are not yet satisfactory to themselves. In France, we know that these subjects have lately attracted much consideration. In Holland, a revision of the whole system is before a commission appointed for that purpose. In England, one of these subjects, the reformation of the criminal code, is before a committee of the House of Commons, at the head of which is Sir James Mackintosh. The bankrupt laws are, or lately have been, under investigation before another committee, and the Insolvent Debtor Act is receiving great attention from some of the principal men in either House of Parliament. In our own country, we know that Congress has for two sessions discussed a proposed system of bankruptcy, and that several of the state legislatures are desirous, as far as their power extends, to make just and wise provisions on the subject of insolvency, in case the power of Congress to establish a bankrupt system shall not be exercised. Intelligent men, we trust, will thus see, that the law of *creditor and debtor* in the United States is not such as to cast that imputation on the character of our legislation, which Mr. Bristed's book would authorize, and which the Quarterly Reviewers would confirm and circulate. If our code be not *perfect*, neither is the code of any other nation perfect; and whatever ignorant or prejudiced men may write or may believe about us, those who have sense and candour will distinguish between what is inherent in a difficult subject, and what is the result of unskilful or dishonest legislation.

ON THE PRIORITY OF GREEK STUDIES.

A Græco sermone pueram incipere malo; quia Latinus, qui pluribus in usu est, vel nobis nolentibus se præbet:—

* * *

Non longe Latina subsequi debent, et cito pariter ire. Ita fiet, ut cum æquali cura linguam utramque tueri cœperimus, nutra alteri officiat. *Quintil.*

It has long been matter of deep regret, that among the various paths of science so successfully explored in general, comparatively few among us have pursued the track which leads to distinction in classical learning. The path, we know, to this proud station is arduous, and the eminence sufficiently difficult of ascent. Some few have indeed given splendid examples of perseverance, and have gained the summit with honour and advantage: many have been content with a precarious footing, or at best have but partially succeeded; while by far the greatest portion have given up the undertaking in utter despair. It may not be uninteresting to inquire, whether many of these difficulties do not arise from the manner in which the languages called *learned* are generally taught in this country. To omit in this place any notice of the Latin, it is to be feared that the length of time suffered to elapse before our youth are initiated even into the rudiments of Greek, is one reason why this language is frequently learned in a hasty and careless manner, and too often laid aside after it has answered its present purpose, admission to the University. By this fatal neglect, an opportunity is lost, never afterwards to be regained, of imprinting on the mind the most sublime and beautiful conceptions of human intellect; the taste for antiquity itself is impaired, and classical learning viewed with sordid indifference:

Ignoti nulla cupido est.

The early age also, at which our young men are in the habit of entering the University, prevents, in many cases, their being sufficiently grounded in this advantageous study: the prosecution of which afterwards is at all times interrupted by the multiplicity of avocations, which the student finds in the other branches of knowledge, probably of more immediate and practical importance in his future career; and the variety of mere ornamental acquisitions, which at his age are considered necessary on his approaching debut on the grand stage.

But it is not solely on its own account that we regret Greek has not been more cherished among us. We lament it rather, as we conceive it utterly impossible without its assistance to obtain a correct knowledge of Latin, a language by all considered absolutely necessary. Nay, we cannot expect *precision* in our own from any other than a Greek scholar, for there are many words* derived from that fountain which cannot be used in a peculiarly correct sense without a knowledge of their etymologies. Where are we to find the solution of the various technical terms used in every art and science, unless by referring to the source whence they have flowed down in the stream of ages? Latin,† in short, is but a dialect of the Greek; and has acquired from it all it possesses of the majestic, perspicuous, and beautiful. Nor is there between the languages any just comparison, the vigorous energy of the Greek as much excelling the elegance of the Latin, as the bold hand of nature stamps upon its works a grandeur of impression far superior to the fancied improvements of modern art. Greek is indeed the Promethean torch to literature: without it all is lifeless and obscure, while its genial influence pervades, and gives light and animation to the remotest region of science.

We not only suggest that the commencement of the study of this language is so long delayed with us, that previously to their entering College, it is almost impossible, with the means we have, to impart any thing like proficiency to our youth; but we will go much farther: we will boldly recommend that the preference should be given to it in priority of instruction over the Latin. Let not our readers be startled, when we assure them we have made this a subject of long consideration. In other countries, as in the institution of De Fellenberg at Hofwyl, we have seen and heard of many instances in which this method of teaching the dead languages has been crowned with decisive success; and in this country, always keeping in mind the very imperfect manner in which, from circumstances, our youth at present study Greek, we are convinced much good would result from a change of system in this respect. We respect the venerable axioms consecrated by the judgment and practice of our ancestors; yet their dictates are not so arbitrary, nor their decisions so

* Græco fonte cadunt, parcè detorta.—*Hor.*

† Linguæ Œolicæ sermo Latinus est simillimus.—*Quintil.*

infallible, as to forbid our exercising the privilege of judging for ourselves. We call to mind that this weighty chain of prescription was forged in other times, and under other circumstances. Why then should we hesitate in refusing to drag it after us any longer, now that a change has taken place in many of the material causes of its first formation? It is evident that the practice of teaching Latin before Greek arose, not from the former being a *necessary* introduction to the latter, but because, from the nature of the times and the ignorance of the period, it was of more general utility and therefore better understood than Greek. Before the taking of Constantinople, such was the darkness of Europe as to this language, that Petrarch is said to have possessed the only copy of Homer known to exist in Italy. He himself, scholar and poet as he was, did not begin the study of Greek until late in life; and the possession of such a manuscript must have been invaluable to an ardent spirit, before condemned to read the divine conceptions of the bard through the medium of a Latin translation. When the capital of the eastern empire fell into the hands of the Turks, Greek, before spoken there with correctness, and even Attic elegance by persons of rank, sunk into comparative obscurity. Notwithstanding the revival of classical learning, the invention of printing, and the patronage of the house of Medici, the removal of the Greek professors to Italy consequent to the fall of Constantinople, seems to have had little or no effect in establishing any very general study of the language. What was lately the most splendid, copious, and sublime of living languages, after twenty-three centuries of fame, was suffered to perish through neglect; and became in a short time what it has ever since been considered, a dead language. In England we find that Greek was first introduced at Oxford by William Grocyn, the friend of Erasmus, who was appointed the first professor about the year 1491. The study does not seem to have flourished for some years afterwards; and though, after a lapse of several years, we read in Ascham of the queen's (Elizabeth) and lady Jane Grey's passion for Greek, we imagine these were rather rare instances,* and more to be attributed to the tutor, than to the character of the times, or

* Joanna Lady Lumley translated three Orations of Isocrates into Latin; and the Iphigenia of Euripides into English. She was the wife of lord Lumley, and daughter of lord Arundel. She died in 1620.

the sex's general studies. Previous to the reformation, many circumstances had conspired to give to the Latin great advantages over the Greek. The novelty of the latter in Europe, not assisted by the imperfect types in use, the excessive ignorance of the monkish patrons of literature, the jealousy of the conclave against the Greek church, and the vast authority of the papal see, exerted, (with the splendid exception of Leo X. and the other members of the Medicean family,) against the propagation of the Greek language, were obstacles not easily surmounted in those days of abject superstition. We remember to have read somewhere of a very learned and piously disposed monk, who thought it necessary to caution his devout hearers against *a new and profane language then lately invented, called Greek!* From such guardians literature had nothing to expect. Classical learning was by them condemned, as destructive to true piety, and hostile to the theology of the church. In Germany, the use of the civil law was one of the first and chief causes of the study of the Latin; and on this foundation did the Germans rear the magnificent structure of classical learning, which is now the admiration of every scholar. The use of the civil law naturally enough introduced a preference of the language in which it was written: Judicial proceedings were carried on in no other tongue; and as it was found peculiarly adapted to this service, it soon became by common consent a universal language of communication between foreigners of various nations, and consequently a neceesary and primary part of education. It was adopted by annalists, theologians, grammarians, commentators, and lexicographers: for nothing can be more natural, than that men, without reference to any particular country, should write in the language common to all scholars, and that Greek in its infancy should be explained through the Latin, then in universal popularity. Such are some of the causes why the Latin came to be taught previously to Greek. But we contend that the necessity which before existed, now no longer exists. It had no reference to futurity; it was founded on the exigencies of literature at the time of the first appearance of Greek as a study in Europe; and it never could have been contemplated that in the nineteenth century, prescription of such a nature, and on such a subject, should influence us against candidly considering the eligibility of a change of sys-

tem. However we may be in error as to this change, our object cannot be mistaken, which is, to promote the study of the Greek language in our schools, convinced that on this depends the advancement of our classical and polite learning, in which it would be madness to assert we are on a par with our European brethren. Whether this be effected by the adoption of any new system, or by increased diligence in the old one, it will equally be matter of sincere congratulation to us; and of this we are assured, that those who disapprove most of our suggestions, will still go hand in hand with us in our exertions to attain the main and common object, which we repeat, is the obtaining for our country of a higher classical and poetical character.

The principal evils which call for correction in the present system of Greek instruction appear then to be these. The very unnecessary delay before even the Grammar is put into a boy's hand in our schools in general, so much so, that it is not rare to meet with those who are reading Virgil, without having acquired the Greek alphabet: the early period at which it is thought eligible to place them at the University; and what is a necessary consequence, the inefficiency of the previous preparation.

The effect of the rapid promotion from the school to the college, added to the delay before Greek is at all attempted, is this: That the youth having run through a few initiatory books, the very first of which is, *in ipso limine*, so notoriously incorrect in its printing* as frequently to mislead the unsuspecting, arrives in due time at the University with no greater proficiency than can be acquired by having read part of the Greek Testament, and Dalzell's Collectanea Græca Minora. The New Testament, containing many words and idioms not Greek, cannot be commended as a pure model; and though very properly read, can only be absolutely necessary in the original for future students in divinity. The Collectanea, even with the additions lately made in this country, contains so little, and that so easy and simple, that it may be read by any boy of twelve with the greatest facility.

It cannot be expected that boys, leaving school thus imperfectly grounded in Greek, should make great progress at the University; or afterwards, should circumstances permit,

* We cannot do better than quote the opinion of Dr. Knox, that 'a beautiful type in Greek books, intended for the use of schools, is found to be very advantageous.'

continue their studies in the language. Indeed, without extraordinary parts and industry, it will be morally impossible to do so. Taste will naturally be wanting to explore the more difficult paths of learning, in which all will assuredly be darkness save the mere grammatical routine, which, as it is most adapted to it, is perhaps best acquired and retained in youth. We are indeed persuaded that the proficiency of a young man in Greek, thus educated, will not be greater even after his degree, than he might have attained at a respectable academy, were our system once established under an intelligent and skilful master. We recommend, therefore, as likely to remove some of the difficulties alluded to, the postponing for a year or two the entrance of a boy into College, particularly if designed for a learned profession; and the making of the Greek language the *first* and principal study in classical schools, and the object of increased attention and honourable emulation at the Universy. But let it not be imagined that we undervalue Latin. We are aware that for common every-day purposes, a very insignificant acquaintance with it may be more advantageous than the most profound skill in Greek; but as advocates for literature in general, we are rationally convinced that the road to eminence* lies through Greek alone.

To return; let us, for instance, take a boy of nine or ten years of age, before which time we would scarcely recommend any experiment which is to demonstrate the plausibility of a system like ours; and supposing him well enough grounded in English grammar, without which it will be in vain to attempt to teach him any other, we would put into his hand an easy, and what we think very material, a concise English-Greek Grammar. Without fatiguing him with the Syntax at present, he should be allowed to pass some months in thoroughly digesting the Accidence. As this is of no great length, he should go through it at least three times; and a mode of examination similar to that of Simpson's Questions to the Eton Grammar will be found peculiarly useful in fixing in the memory the variations of the verb, which forms the great difficulty with boys. With moderate talents he will then be able to bear an introduction to the next step, which should be to translate short and easy sentences of pure

* Hoc unum expertus video, nullis in rebus nos esse aliquid sine Græcitate. *Erasm: Epist.*

Greek agreeably to the Syntax, which should then *first* be committed to memory, and applied, as learned, to the sentences rule by rule. The examples of these Syntax rules, if translated and parsed accurately, will naturally be the readiest means of understanding the rule itself, and of unravelling the sentences, which at first should be nothing more than repeated exercises upon each successive rule. As many words will occur in these examples beyond the reach of boys in this stage, it will be incumbent on the master orally to explain and parse them to his pupils; and we cannot help remarking here the pernicious habit, frequently indulged, of suffering boys as well in the Greek as the Latin grammar, to omit altogether committing the examples to memory. When thoroughly master of the Syntax, the examples, and their parsing, the sentences will be translated with ease and parsed with propriety; and then, and not till then, we would recommend our pupil to begin the Latin Grammar, which should be similar in arrangement to the Greek one, the master always pointing out any coincidence which may occur between it and the one he has already studied. In this stage the rapidity with which a boy of talent will imbibe the derivative from the primitive language will afford the best proof of the efficacy of the system. While rapidly advancing in Latin, his superiority in Greek must be maintained by the progressive reading of higher books at the discretion of the master, similar in plan to the Collectanea Græca Minora, the utility of which would be much increased by a new edition, with an English translation of the Notes and Vocabulary. The Collectanea Majora will follow, and as the pupil will have gained by this time a sufficient knowledge of Latin, the elegance of the Notes will be of great advantage to him. Greek exercises in the manner of Turner's Latin, may here be introduced with propriety; and afterwards those of Dr. Huntingford, bishop of Hereford, will be found particularly useful in making Greek, and practising the Rules of Accent, a very material part of accurate Greek education. But in this stage the pupil must build his future knowledge of the language on strict grammatical analysis: he must now attend to its niceties, and on no account pass over one word without investigating its etymology or composition. On this he must depend for complete accuracy, on this found his future claim to the title of scholar; for we think there can be no doubt but that his progress

in Latin will be exactly proportioned to his acquired skill in the Greek, not to mention that his inferior knowledge of the one will be greatly assisted by his researches into the other. By the time when it may be necessary to enter College, with a good master and judicious treatment, he will thus have made himself a tolerably good Grecian; and if, as an extreme case, he has not succeeded so well in Latin, the course of studies there, being necessarily more favourable to the cultivation of Latin than of Greek, will amply remedy the deficiency.

To the adoption of this change of system we can ourselves anticipate many objections. The principal, that long usage is so decidedly in favour of the priority of the Latin, that no inversion of the order has ever been contemplated among us, has been before noticed; and we repeat, it is not because prescription has imposed upon us, that the Latin grammar shall precede, that we are bound to obey; now that necessity no longer compels us to submit. Nor are we to be deterred by any dread of ridicule, or the reproach of singularity and affectation from recommending any alteration, trifling as this is, when the object to be gained is of such importance. But this objection, however urged, cannot affect the merits of the plan, which, after all, is merely suggested for the consideration of parents and classical instructers of youth. Knox, in his excellent treatise on Liberal Education, has expressed himself with some petulance against 'innovators in this department;' and his objection claims attention, not so much by its weight, as the character of the man who makes it. Indeed, his usual accuracy seems here to have deserted him, for he argues on the assumption, that a boy of fourteen, who has been taught Greek first, might indeed have made some proficiency in it, but would be totally ignorant of Latin. We acknowledge, if this be granted, that our system must be bad; but we protest against so obvious a *petitio principii*, and will cheerfully join issue on the question. This hasty opinion of Knox is not sufficient to overthrow the authority derived from the greater name of Erasmus, whose view of this subject it was intended to expose. That scholar was of opinion, that as Greek is the foundation of all liberal knowledge, so the best way to acquire it is to study it previously to Latin. In these days the learned Wyttenbach has supported the same principle. But it seems unnecessary to multiply the authorities of names,

which, however great, can only prove an individual opinion. Our system stands on its own merits, and on the importance of the end we are convinced it will answer.

Another more plausible objection is, that the Greek words of every lexicon now in use are explained in Latin; and, consequently, that our system would be impracticable, unless English-Greek lexicons were introduced. To this we have a ready answer, that English-Greek vocabularies would be found at the end of every book we should recommend for primary use in schools; and that while we are writing these rewarks, subscriptions are called for to a new and improved edition of the lexicon most in use, that of Schrevelius, which, we rejoice to hear, is to be edited by a gentleman eminently qualified for the task, by deep and intimate acquaintance with the language. A work of this description has long been a desideratum in literature; and, although we regret that the acute philologer in question has not chosen a more copious original as a foundation for his labours, yet we are gratefully sensible of the assistance his new lexicon will afford towards removing the difficulties which now attend the prosecution of Greek studies. The circumstance of the meanings being rendered in Latin by Hedericus, in his excellent lexicon, (without alluding to Constantine, Stephen, and Scapula, as being more or less unfit for use in schools,) will undoubtedly be of great service in improving the pupil in Latin; for by the time when he will have occasion to refer to this lexicon, it is reasonable to suppose his knowledge of that language will be such as to enable him to use it without difficulty.

One great advantage to be derived from studying Greek in our schools prior to Latin is, the superseding the necessity of bad Latin translations, than which nothing can be more pernicious to youth. The beauties of the original are rarely preserved in even a good translation: in many they are utterly lost, or obscured by miserable attempts to render them conspicuous. It would indeed have been much more for the true interests of classical learning, had not only no translations ever been made; but even no comments written on the classics, save in the language of the people for whose use they are intended. For we think there can be no doubt but the unravelling of the frequently barbarous Latin translations, and commentaries on Greek authors, in the hope of rendering the Greek authors more intelligible, besides the vitiated style

he must necessarily become too familiar with, costs the unfortunate student more time and labour, than would enable him to understand the authors themselves, had the more difficult words been explained by synonymes of the same language, as in the smaller Scholia on Homer. So little serviceable, indeed, to grown up persons are Latin translations in general, that a very moderate proficient will in many cases sooner discover the meaning of the Latin from the Greek, than find his perception of the original assisted by the translation.

POSTSCRIPT.

Since the review of the Rev. Dr. Jarvis' Discourse, in the preceding pages, was printed off, we have had an opportunity of seeing a young man of the Cherokee nation ; and from his information it appears, that our conjecture in p. 109, respecting the *dual* number, was unfounded. We had thought that what takes place in some other dialects, was likely to exist in the *Cherokee*, and that what has been called its *dual* number, might in fact be a *limited plural*. But we find, upon conversing with the Cherokee just mentioned, that the language has a *dual* number, like the ancient languages.

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ART. XII.—*An Index to the Geology of the Northern States, with transverse sections extending from Susquehannah river to the Atlantic, crossing Catskill mountains; to which is prefixed a Geological Grammar. By Amos Eaton, A. M. Lecturer on Natural History and Chemistry in the Troy Lyceum; Professor of Botany in Castleton Medical Academy, &c. Second Edition, wholly written over anew, and published under the direction of the Troy Lyceum.* Troy, published by William S. Parker, 1820.

WE hail with pleasure the appearance of any work on the natural history of our country, a subject which has been too long permitted to lie in obscurity, and the study of which has in no slight degree been retarded by the mistaken notion that it is incompatible with professional pursuits and an interruption to the active business of life. The necessity of pointing out inducements to the cultivation of an intimate acquaintance with our natural productions is however daily becoming less necessary, and we now rarely hear the inquiry, what pleasure or benefit can result from the study of plants and of animals? No one can be insensible to the interest awakened by the contemplation of animated nature; but the lifeless masses which lie scattered on the surface of the earth are less calculated to arrest the attention, and are daily passed by with neglect. Few persons are alive to the

pleasure, and still fewer to the utility of examining rocks, the structure of crystals, or the association and connexion of mineral substances. Rough and forbidding in their aspect, it is not to be wondered at, that they should so long have been viewed with no other interest, than is excited by the wish to select those apparently most suitable for the various constructions needed in a civilized society. 'Ils ne sont,' says the venerable Haüy, 'pour le commun des hommes, que des masses brutes, sans physionomie et sans langage, faites seulement pour être appropriés à nos besoins; on a peine à s'imaginer qu'il y ait une place pour le naturaliste, entre le mineur qui les extrait, et l'artiste qui les élabore.' But the taste for natural science has of late been rapidly increasing among us, and in some departments much has been already effected. In most of our large towns we have able and zealous teachers, and in all our universities and colleges are those, whose duty and pride it is to foster a spirit of inquiry into our animal, vegetable, and mineral riches. Every year sends forth into the remote parts of our country young and ardent students, who are announcing discoveries, or bringing to light productions of the highest importance in agriculture and the arts, for many of which we have long been dependent on foreign climes, and of which commercial obstructions have more than once nearly deprived us.

In zoology and botany much has been done; and from the presses of our country have issued, and are still issuing, works that do honour to the nation, some of which already adorn the libraries of the first naturalists of Europe.

In mineralogy we can boast at least of one work, which has merited and received the highest encomiums abroad, having not only been reprinted, but pronounced the best work of the kind as yet published in our language.

For some years mineralogy made less progress among us, than the other branches of natural history; but on the arrival of the magnificent collection of Col. Gibbs, a new and powerful impulse was given to this study. This splendid cabinet, deposited at New Haven under the charge of a gentleman eminently qualified to make it useful, rendered the mineralogical lectures doubly interesting, from the ample means of illustration it afforded; and mineralogists had there an opportunity of making themselves familiar with the characteristic forms of the objects of their pursuit. To the want of an extensive and well arranged

cabinet of specimens is, in a great degree, owing the little attention which has been paid in this vicinity to mineralogy. The student seeks in vain for standards of comparison, or characteristic specimens of the simple minerals, without a previous acquaintance with which, geology cannot be pursued with any prospect of success. 'As all sound scholarship,' says Mr. Aikin, 'is founded upon grammar, so all sound geology depends primarily on a familiar acquaintance with the distinctive characters of simple minerals.' Those, who are unable to identify every mineral substance that presents itself, cannot undertake the examination of the geological structure of a tract of country, without betraying the grossest ignorance; with all the impudence of which, they will claim the credit of new discoveries, call in question the observations of others, or perhaps eke out a meagre description of the most common minerals, with an unacknowledged abstract of the remarks of their predecessors. From New Haven the zeal for geological studies radiated throughout the land, and thence have departed many ardent students to explore the mountains and vallies, and to trace the torrents and water courses, which in so striking a manner lay open the interior of the country. The eyes of the geologists of Europe are turned to this continent, in the grand and extensive formations of which, they anticipate with no feeble interest the solution of some of the long contested problems of their favourite science. Let us neither disappoint their just expectations, nor suffer ourselves to consider every substance *we* have not before seen, as new; let us not announce discoveries we have never made, nor describe rocks with which we are unacquainted. Our country is peculiarly interesting to the geologist, and already have we found an abundant supply of some minerals rare in the Old World; the chrysoberyl of Haddam, the tourmalins of Connecticut, the beryls of Maine, the kyanite of Chesterfield, and many other substances, are no where surpassed in the magnitude of their crystals, or the delicacy of their colour.

It is much to be regretted that many among us, who commence the study of mineralogy with zeal, too soon sit down contented with a slight knowledge of the more common simple minerals, while others attain little beyond an imperfect acquaintance with the rocks of their immediate vicinity. Let such remember that to become familiar with these, is the first

step only in this fascinating pursuit. The student should next be led to the field, and to the mountain's side, where their situation in nature can be traced and explored, and where the desire will be awakened to know the characters of the compound masses, of which they constitute but a small proportion. Here his views will expand, he will be anxious to discover the composition, the connexion, and relative position of extensive beds and regular strata, and to trace the course and effects of mineral veins.

So well established are the relations and connexions of many rocks, and so confident are we of the presence of certain minerals in a certain set of rocks, that with some knowledge of geology we can assure ourselves of the probable existence of coal, of gypsum, of salt, and of many other useful substances, beneath the spot on which we stand, before a shovel full of earth is removed.

Do we desire to erect works of utility or ornament which shall withstand the ravages of time, geology will enable us to select the materials; nor shall we derive less aid in our endeavours to improve a barren soil, to build the most permanent roads, to produce the most transparent glass, the most delicate porcelain, or compact and durable pottery. These are a few only of the many inducements to the study of geology, and but a small proportion of the benefits to be derived from it. When pursued through all its branches, and with more exalted views, it conduces to habits of accurate and minute examination, it calls into operation all the powers of the mind to trace the causes of the great revolutions which have taken place in the solid mass of our planet. The grand and varied phenomena of nature, the effects of electric and galvanic action, the formation of rain, dew, hail, and snow, the forming and destroying effects of water, the appalling earthquake, the terrific explosion of meteors, and the desolating eruptions of volcanos, are but a portion of the sublimer researches of the geologist. Thunder-storms, and water-spouts, and the destructive effect of frost and thaws are no less important and elevating subjects of his consideration.

The great and increasing attention which has of late been bestowed on geology is no feeble evidence of its importance and utility. To the man of leisure, to the general scholar, and accomplished gentleman, some knowledge of it is daily becoming more necessary, without which scarce a volume of

travels or topography, a review, or a journal, can be read with all the interest it demands. The structure of the country and the stratification of its mountains, are now as often and as minutely described, as the plants and the animals which are found upon their acclivities.

To men of wealth and leisure, natural history in general presents itself as a source of the purest happiness, and as a relief from the ennui of idleness. In the words of one of the ornaments of our country, 'it is every where present, it meets you in the air, on the earth, or on the water; it can be brought into your closet, or surround you at the fireside.'

We were led to the foregoing remarks on laying down the work, the title of which is at the head of this article, from an anxiety to urge on our mineralogical students the necessity of a minute acquaintance with simple minerals, and to point out to them objects of higher interest, than the few rocks of their immediate vicinity; the knowledge of which has been too often thought sufficient to render them distinguished as geologists. The labour of many is yet wanted in the examination of particular tracts of country, and in the collection of unquestionable evidence respecting the nature, properties, relative position, &c. of the formations throughout the United States. The leading features of our geology have been ably traced by Mr. M'Clure, but he has done little more than to sketch an outline, to be filled up by others. Let theory be laid aside, and the actual phenomena be first well described and faithfully recorded; conclusions may then be drawn with safety, and hypotheses indulged in. But he who previously adopts a theory will inevitably distort facts and give but imperfect and partial statements.

This collection of facts is now advancing with rapidity, through the medium of various journals, and especially that of Prof. Silliman, in which geological descriptions of many parts of New England have been often ably given. Much still remains to be done, and we trust that one good effect of the very respectable continuation of Dr. Bruce's Journal will be the awakening of the attention of the public in general, to those branches of natural history, which have been hitherto the most neglected.

The work of Mr. Eaton contains many facts relating to the geology of the New England states, in the collection of which the author has evinced great zeal, and undergone much

bodily fatigue, as he informs us in the preface, where, after noticing the labours of others, he thus proceeds: 'the drudgery of climbing cliffs and descending into fissures and caverns, and of traversing in all directions over most rugged mountainous districts, to ascertain the distinctive characters, number, and order of our strata, has devolved on me. I make no pretensions to any peculiar qualifications, other than bodily health and constitutional fitness for labour and fatigue, which such an employment requires.' The district of country which Mr. Eaton professes to have 'attentively studied for the last four years,' is 'about one hundred and fifty miles in breadth, through the southern part of which runs the 42 degree of north latitude, and it extends very nearly from the 71 degree of west longitude.'....'I have also,' he continues, 'taken a hasty survey of the southern part of the state of New York. My journeys on foot, while in search of geological facts, will now exceed two thousand miles, leaving out of the account all my excursions in the vicinity of Troy and Albany, and more than another thousand of carriage and water travelling.' During these excursions we believe Mr. Eaton has given three or four courses of lectures on the outlines of geology, in various towns and villages of the interior, and has excited considerable attention to the subject.

However much we dislike this trade of itinerant lectureship, we confess that we have seen proofs of the usefulness of Mr. Eaton in the interior of our own state, having unexpectedly met with persons who began to feel great pleasure in mineralogy, which would probably never have been the case had they not been visited by Mr. Eaton or some other equally zealous teacher. It has been customary, we believe, with Mr. Eaton to collect specimens of the rocks in the vicinity of the towns and villages where his lectures have been given, which are labelled and placed by him in some room accessible to all who have a wish to prosecute the study. This mode of proceeding merits the highest commendation, as many persons, whose curiosity has been awakened and whose interest in mineralogy has been excited by Mr. Eaton's instructions, will be induced to pursue the study with increasing zeal from the means thus afforded of becoming acquainted with the characters of minerals, of recognizing those already described, and of distinguishing new varieties. As these

collections are the only standards to which students in many places can refer, it becomes highly important that specimens of undoubted character be selected, which shall, as far as possible, exhibit every peculiarity of structure, fracture, and other circumstances, by which slight shades of difference may be detected, and correct principles be indelibly fixed in the mind. Some of these collections we have lately had an opportunity of examining, and are compelled to express our regret that larger and better characterized specimens were not chosen, and more especially that any should have been misnamed; since fundamental errors resulting from the study of these at the outset will ever after impede the progress of the solitary student. This is not the first time that we have noticed the mistakes of Mr. Eaton; we remember to have seen in the American Journal of Science a catalogue of specimens collected by this gentleman at the Southampton lead-mine, and were not a little surprized to learn that alternations of granite and green wacke occurred there. We have lately examined the stratum described as green wacke, and our surprize vanished on finding that an imperfect mica slate with chlorite had been mistaken for that rock.

On the author's theory, with which we are first presented, and the annexed diagrams, we shall merely remark, that the former is a very imperfect outline of that of Werner, and the latter are fanciful and visionary sections through the earth, at the forty-second degree of north latitude. Diagrams are often employed by teachers of geology with success, when intended merely to convey more distinct ideas of the relative position of rocks, but here we have at one view the strata of the Rocky Mountains and of Tartary, of New England and of China, nor have the waters of the Atlantic and Pacific oceans concealed from the penetrating glance of our author the strata which they cover. The grammar of geology, as the succeeding seventy pages are entitled, must be highly acceptable to those who have been deterred from engaging in the study by the tables of species usually prefixed to elaborate treatises; for Mr. Eaton has been able to simplify the science beyond the most sanguine expectations ever entertained, and the student will not be shocked with the barbarous names which have of late been multiplying upon us. The great discovery to which we allude is what Mr. Eaton terms the Geological Alphabet, consisting of nine simple

minerals, an acquaintance with which will enable any one 'to spell out any rock with facility,' for quartz, feldspar, mica, talc, hornblende, argillite, limestone, gypsum, and chlorite, in various states of combination, compose the crust of the earth! Of these nine substances, meagre definitions follow, and the chapter concludes with a recommendation, which by the way we highly approve, of exercising students daily in pointing them out in the various states of aggregation.

We were struck with the truly original remark with which the next chapter commences, 'the exterior rind of the earth is divided into five classes,' which are, 1st. Primitive rocks, 2d. Transition, 3d. Secondary, 4th. Superincumbent rocks, and 5th. Alluvial formations. Volcanic rocks, we are told, 'do not form a distinct class;' to the description of these, however, nine lines are devoted. From the manner in which obsidian is here introduced, we presume Mr. Eaton considers it as always of igneous origin.

Each class is next subdivided into strata, and we accordingly have strata of granite, gneiss, &c.; a strict conformity in the application of terms, to their definitions by those writers and teachers to whom the pupil is to look for the first principles of a science, cannot be too strongly insisted upon, as the greatest confusion must otherwise result. As Mr. Eaton evidently sets out with a predisposition to the Wernerian theory of formations, he should have adhered somewhat more to the geological distinctions of the German geologist, to which he appears to have attended but little. Although we cannot admit the hypothesis of Werner to its full extent, yet we think his definitions are for the most part clearly expressed, and none more so than those of beds, strata, and veins. We do not object to the use of any term, let it be bed, deposition, formation, or any other, which shall leave us the power of saying in what manner these extensive masses are arranged. The term, as used by Mr. Eaton, will lead the student into error, and cause him to view all rocks as stratified; whereas it is sometimes evident that some are not so, while the arrangement of others cannot be satisfactorily determined. By stratification we understand the division of a mass of rock into many parallel portions, whose length and breath greatly exceed their thickness; the strata of mountains may not unaptly be compared to the division of

a book into leaves. The existence of granite in strata has long been warmly denied by many eminent geologists, and by others, not less distinguished, has been as strenuously maintained; this interesting question we have great reason to hope will be decided in this country, where such extensive beds and veins of the rock occur. In describing granite, as has been done in the work before us, the obvious inference is, that it is always stratified, which is far from being correct. We dislike exceedingly the air of self-confidence which pervades this work, and the slight regard paid to writers of high standing, many of whose opinions are the result of unequalled opportunities for observation, and should have great weight with geologists in this country. In the preface, Mr. Eaton evinces a presentiment of the justice of the foregoing remark, from which he endeavours to shield himself, by saying, he 'should not feel greatly mortified, if closet critics should object to' his 'plain, unvarnished, matter of fact method, and even if the more able theorists should accuse' him 'of placing too much confidence in' his 'own observations and opinions. I now,' he continues, 'answer them all at once. Go to the localities to which my index refers you, and let nature herself decide our controversies.' Unfortunately for Mr. Eaton, we have done this, and nature has decided against him. We shall, however, select but one remarkable example. At page 97 the author says, that after examining the granite of Chesterfield and Goshen very attentively, he has always found it in the form of veins traversing gneiss. We have visited these localities more than once, and have no hesitation in saying that more distinct and well marked beds do not exist in this part of the United States or in Europe; and what renders the fact more interesting is the distinctly stratified structure of some of them. Mr. Eaton, we imagine, has not acquainted himself with the circumstances which distinguish beds, veins, and strata; nor has he been sufficiently aware of the importance of these distinctions. It seems pretty generally agreed among geological writers, that those masses of rock, which are composed of materials differing from the strata wherein they occur, and which lie nearly parallel to the seams of stratification, shall be viewed as beds, while veins cross the strata at various angles, but most commonly at right angles. How far the granite of Chesterfield agrees with this definition of a vein, the most inexperienced

eye, we should think, might readily decide. These remarks apply not only to the particular mass of granite in which the red and green tourmalins occur, but to the greater number of granite masses in Chesterfield and Goshen. Let us not, however, omit to mention our perfect accordance with Mr. Eaton in respect to the blocks of granite at Goshen which contain the rose mica: these are unquestionably portions of a vein, which can itself be traced across the strata for some distance.

The reasons assigned in this work for embracing, under the title of hornblende rock, all the 'aggregates of which hornblende is a constituent, excepting the superincumbent class,' are by no means satisfactory. True it is that the term sienite has been applied to a great variety of aggregates with little or no discrimination, but the characters of the rock, to which the name was originally given, are strongly marked and cannot easily be mistaken. Unfortunately our geologists have too often acquired their knowledge of rocks from a few hand specimens only; their views have been too microscopic, they have not traced beds and strata to any considerable distance, nor considered them upon the great scale. A specimen or two has been broken from a stratum with little or no regard to the variety of structure, composition, and proportions of the ingredients in different parts of the bed or stratum, and the slightest difference in aspect has led to unnecessary distinctions, causing great confusion. We are often presented with a formidable catalogue of rocks, many of which we almost despair of recognizing; on examination, however, the greater number are found to constitute but one or two essentially different. With no set of rocks has this oftener been the case, than with those into whose composition hornblende largely enters. Mr. Eaton tells us that the rock at Charlestown, in which prehnite occurs, is a 'true greenstone.' The feldspar in this bed is abundant and distinct, nor are the quartz and hornblende less so. In the 'true greenstone' we have no quartz, but an intimate mixture of hornblende and feldspar; and it may be here remarked that augite frequently takes the place of the hornblende, constituting a variety of which we have beautiful examples in the West Rock at New Haven, and on the side of Mount Holyoke. We have been in the habit of considering the Charlestown rock as sienite, and have traced a most beautiful transition into distinct greenstone, by the loss of the quartz and more and more intimate mixture of the other ingredients.

No rock is more interesting to the geologist than grau wacke, from its peculiar structure, its position in regard to what are considered as more ancient strata, and from its presenting the first traces of the remains of organized bodies, generally of the less perfect animals and plants. As we ascend to the newer rocks, petrifactions of more perfect organization appear, till finally we meet with those of the most perfect animals, and even of man. Although the name grau wacke conveys little or no idea of the aggregate to which it was first applied by the Germans, their definition of it is sufficiently precise. Unfortunately it has been too often deviated from, and of late an extension has been given it, by which it is made to include some conglomerates, for which no place had been provided in the prevailing systems. By grau wacke is understood a mass having an *argillaceous basis*, in which are dispersed grains and portions of quartz, feldspar, flinty slate, and clay slate; a definition evidently not applicable to the rock described by Mr. Eaton, as consisting 'of grains of quartz cemented by indurated clay.' From the examination we have made of this rock in situ, we have been led to view it as a variety of quartz rock very similar to some varieties in the Scottish Islands, which have been so ably described by Dr. MacCulloch in the second volume of the Geological Transactions. Again Mr. Eaton employs the term 'Rubble stone,' after Kirwan, as synonymous with grau wacke, and at page 188 says, 'Messrs. Danas found the rubble stone variety of grau wacke in considerable quantities near Boston,' &c. The rock here referred to is known in this vicinity by the vulgar name Pudding-stone, and is the prevailing rock in Roxbury, Dorchester, and some adjoining towns. This rock forms one vast bed, which we have examined in various parts, and feel no hesitation in saying, that it is not the grau wacke of European geologists, neither will the definition of Rubble stone, as given by Kirwan, apply to it; which for the benefit of our readers, who have not the work at hand, we shall copy—'This is a particular kind of sandstone, containing not only grains of quartz, siliceous shistus or hornstone, but also scraps of bluish argillite in a *clayey cement*, and of this there is often no more than is barely sufficient to hold the grains together, sometimes with, and sometimes without mica.' *Kirwan's Mineralogy*, vol. i, p. 419. The rounded masses of which the Roxbury stone is

pleasure, and still fewer to the utility of examining rocks, the structure of crystals, or the association and connexion of mineral substances. Rough and forbidding in their aspect, it is not to be wondered at, that they should so long have been viewed with no other interest, than is excited by the wish to select those apparently most suitable for the various constructions needed in a civilized society. 'Ils ne sont,' says the venerable Haüy, 'pour le commun des hommes, que des masses brutes, sans physionomie et sans langage, faites seulement pour être appropriés à nos besoins; on a peine à s'imaginer qu'il y ait une place pour le naturaliste, entre le mineur qui les extrait, et l'artiste qui les élabore.' But the taste for natural science has of late been rapidly increasing among us, and in some departments much has been already effected. In most of our large towns we have able and zealous teachers, and in all our universities and colleges are those, whose duty and pride it is to foster a spirit of inquiry into our animal, vegetable, and mineral riches. Every year sends forth into the remote parts of our country young and ardent students, who are announcing discoveries, or bringing to light productions of the highest importance in agriculture and the arts, for many of which we have long been dependent on foreign climes, and of which commercial obstructions have more than once nearly deprived us.

In zoology and botany much has been done; and from the presses of our country have issued, and are still issuing, works that do honour to the nation, some of which already adorn the libraries of the first naturalists of Europe.

In mineralogy we can boast at least of one work, which has merited and received the highest encomiums abroad, having not only been reprinted, but pronounced the best work of the kind as yet published in our language.

For some years mineralogy made less progress among us, than the other branches of natural history; but on the arrival of the magnificent collection of Col. Gibbs, a new and powerful impulse was given to this study. This splendid cabinet, deposited at New Haven under the charge of a gentleman eminently qualified to make it useful, rendered the mineralogical lectures doubly interesting, from the ample means of illustration it afforded; and mineralogists had there an opportunity of making themselves familiar with the characteristic forms of the objects of their pursuit. To the want of an extensive and well arranged

cabinet of specimens is, in a great degree, owing the little attention which has been paid in this vicinity to mineralogy. The student seeks in vain for standards of comparison, or characteristic specimens of the simple minerals, without a previous acquaintance with which, geology cannot be pursued with any prospect of success. 'As all sound scholarship,' says Mr. Aikin, 'is founded upon grammar, so all sound geology depends primarily on a familiar acquaintance with the distinctive characters of simple minerals.' Those, who are unable to identify every mineral substance that presents itself, cannot undertake the examination of the geological structure of a tract of country, without betraying the grossest ignorance; with all the impudence of which, they will claim the credit of new discoveries, call in question the observations of others, or perhaps eke out a meagre description of the most common minerals, with an unacknowledged abstract of the remarks of their predecessors. From New Haven the zeal for geological studies radiated throughout the land, and thence have departed many ardent students to explore the mountains and vallies, and to trace the torrents and water courses, which in so striking a manner lay open the interior of the country. The eyes of the geologists of Europe are turned to this continent, in the grand and extensive formations of which, they anticipate with no feeble interest the solution of some of the long contested problems of their favourite science. Let us neither disappoint their just expectations, nor suffer ourselves to consider every substance *we* have not before seen, as new; let us not announce discoveries we have never made, nor describe rocks with which we are unacquainted. Our country is peculiarly interesting to the geologist, and already have we found an abundant supply of some minerals rare in the Old World; the chrysoberyl of Haddam, the tourmalins of Connecticut, the beryls of Maine, the kyanite of Chesterfield, and many other substances, are no where surpassed in the magnitude of their crystals, or the delicacy of their colour.

It is much to be regretted that many among us, who commence the study of mineralogy with zeal, too soon sit down contented with a slight knowledge of the more common simple minerals, while others attain little beyond an imperfect acquaintance with the rocks of their immediate vicinity. Let such remember that to become familiar with these, is the first

Mr. Eaton does not offer any opinion on the origin of trap rocks, a subject which has exercised the ingenuity of so many eminent naturalists of Europe; but from passages in various parts of the work we think he inclines to no one exclusive theory, but endeavours, in a most clumsy manner, to explain appearances, sometimes on the Wernerian and sometimes on the Huttonian hypothesis. As an example of the latter and at the same time as a specimen of our author's ingenuity and talent at description, we select the following account of the Salisbury iron mine.

'It will seem to be taking a bold, or rather visionary ground, to say that the stalactitic [hematitic] iron ore of Salisbury mine, was once specular iron ore, imbedded in this range of talco-micaceous rock, similar to that of Hawley. But when the reader is informed that the only rocks in the vicinity of the mines are of this kind, very similar to those in which the specular ore of Hawley is imbedded, and that the alluvion embracing the ore in its present state appears, by mere inspection, to have proceeded from the disintegration of a similar rock, it will begin to appear somewhat plausible. In addition to this, these iron stalactites are always pendent when laid bare before they are removed. They must therefore have been in a state of fusion as recently as the time when the alluvion was formed. And these stalactites are always suspended from masses intermixed with the soil in such a manner, that it is evident the iron was in a state of fusion when in contact with it. The soot, which still adheres to all stalactitic specimens, proves that the heat was continued after the ore was confined in its present state. If it was ever fused down from any rock, it must have been the same out of which the alluvion embracing it was formed. The cause producing such a high heat I shall not attempt to assign. But that the ore exhibits sufficient evidence of its having been recently fused, I believe no one can question, who has ever inspected it in place. I mean by recently, since all general strata were completed, and during the era of alluvial deposites.'

The short chapter on 'alluvial deposites as applied to agriculture' contains nothing new or original. The description of organic remains, translated from Martin's Systema Reliquiorum, we consider the best part of the work.

In bidding adieu to Mr. Eaton, we would again express our pleasure at the exertions he has made, convinced that he has excited the attention of many persons in the interior of New England to the study of mineralogy, and we think he

deserves the thanks of every lover of science and the encouragement of the community. At the same time we feel it our duty to caution students not to fall into some errors, which Mr. Eaton might have avoided by a little more previous study and careful examination of characteristic specimens. This little work will be found a convenient guide to mineralogists who travel in New England, as it contains numerous localities of simple minerals, and even where errors have been committed respecting rocks, the attention will be directed to the places where they are said to occur, which otherwise might be passed unnoticed.

ART. XIII.—*Documens historiques et Reflexions sur le Gouvernement de la Hollande par Louis Bonaparte. Ex Roi de Hollande.* Paris, 3 vols. 8vo. 1820.

SINCE the Bonaparte family have been relieved from the task of governing the greater part of Europe, they have devoted their leisure to literary pursuits of different kinds. A number of publications has appeared, in the composition of which Napoleon is supposed to have had a more or less direct agency; and it is reported that he is preparing a complete account of his own life. Lucien has published one or more voluminous epics, and may be allowed to have placed himself in this way at least on a level with the celebrated Cottle. Our guest, the Count de Survilliers, has favoured the world with a moral tale; and the author of the work, which forms the subject of this article, produced, some years since, a sentimental romance, which appeared in the first edition under the title of Mary, or the Pains of Love, and in the second under the equally seducing one, of Mary, or the Dutch Women. The king of Westphalia is, we believe, the only one of these illustrious brothers who has made no contribution whatever to the stock of literature.

The work we are reviewing is a production of a different character from any of those which we have mentioned. If one may judge from the number of translations which have been made of it, few works have passed so soon into a circulation so extensive. Besides the English, Italian, and German translations, four separate ones have been made into the Dutch. It is a work of no high literary claims, and is merely

an unpretending account of the administration of Louis Bonaparte in Holland, preceded by a brief review of the previous incidents of his life, and including some notices of the origin of the Bonaparte family and of the early life of Napoleon. As there is no doubt of its genuineness, it is the most authentic document yet before the public with which we are acquainted, respecting these last subjects, and contains several new and interesting particulars. Nor is it altogether without its value in the part, which relates to the administration of its royal author. The history of the short lived kingdom of Holland, though not one of the most important episodes in the great political action of the last thirty years, is by no means destitute of interest; and the reign of Louis is in some points altogether unique among those of his brother vassal kings of the fashion and family of Bonaparte. He appears to have ascended the throne with unaffected reluctance, and under an influence on the part of his brother amounting to little less than absolute duress; and to have entered upon the office with a resolute determination not to be made the instrument of oppressing his subjects, to which he adhered with a firmness, from which nothing but absolute violence from the same quarter ever compelled him to recede, and to which he finally made a voluntary sacrifice of his title and dignity. He evinced perhaps some feebleness of mind and a kind of willing self-deception in imagining for a moment that he could carry this system into effect, and he would have shown more consistency and firmness had he persevered from the beginning at all hazards in refusing a post, which he must have known he should never be permitted to occupy, except in such a way as to accomplish the views of the power that placed him there. It may be, too, that he displayed at the last moment of his reign a want of cool and deliberate judgment in regard to the part he ought to act, and there are symptoms in his narrative of a hankering, subsequently to his abdication, after the throne which he had abandoned. But these are blemishes in an honourable and virtuous character. It is no trifling glory to form, as far as we are acquainted with the history of this period, an exception very rare, if not quite solitary, to the general meanness and depravity of crowned and titled personages. Louis was rewarded for it at the time by the sincere respect and warm affection of his subjects, and his name continues to be men-

tioned by them with expressions of the same sentiments. They were then satisfied and still are, that although they suffered much during his reign from political oppression, it was against the desires and efforts of their sovereign. We are inclined to think that these particular features in the government of Louis Bonaparte are not universally known; and he was therefore right in attempting to prevent any misconstruction of his character by placing it before the public in its true light and in an authentic way.

We are pleased with the tone both moral and literary in which the work is composed. The style is plain and unpretending, and the author, in treating a subject extremely delicate throughout, has manifested a singular discretion, and has abstained religiously from any details, which are in their nature scandalous, or which would have tended unnecessarily to call in question the characters of individuals. There was a continual temptation to adopt a different course, in the abundant materials at his disposition for gratifying the public hunger after anecdote and scandal. In this particular as in the principles of his administration, the author has sacrificed his temporary success to a sense of propriety and justice. We think we shall give pleasure to our readers, in laying before them some of the particulars of the life and government of Louis. There are interspersed in the work a number of letters before unpublished from Napoleon, which are among the few yet in print pretending to proceed from that quarter, whose genuineness can be depended on. We shall copy in the course of this article some of those which, from the style and contents, appear the most remarkable.

Louis repels with contempt the reproach of vulgar extraction that has been thrown upon his family, and maintains that they are of ancient and noble origin. He produces some documents to show that they proceeded from Tuscany and that the family enjoyed in that part of Italy a very distinguised reputation. He has in his possession a history of the sack of Rome written in the sixteenth century by Jacopo Bonaparte, with an appendix by another hand containing a highly flattering account of the greatness and nobility of the family.* It appears, however, that the work remained in manuscript till a recent period, and that the appendix is also

* We have had an opportunity of examining this curious MS. now in the possession of a gentleman of Boston.

of later date. It professes to be printed at Cologne in 1756. It is observed in the beginning of the appendix, that 'the family of the Bonapartes, of the city of San Miniato, is one of the most celebrated families not only in that city but in all Tuscany. When the city was an independent state, this family was of the number which always occupied the principal offices. It was reckoned among the noblest and most powerful houses. According to the unanimous testimony of the historians of the time, it held the first rank in the wars between San Miniato and Florence. All, who are read in our history and are acquainted with our archives, know that this house enjoyed the highest distinction and was one of the principal families in Florence, so that we think it useless to allege any other proof.' This repeated and anxious assertion of the illustrious origin of the family looks a little suspicious. The preface proceeds, however, to enumerate various individuals who held dignities and offices of different kinds; and refers to printed books and public inscriptions in evidence. Among the latter is the inscription on the tombstone of J. J. Mucio de Bonaparte in the church of St. Francis at San Miniato, erected by Nicolas de Bonaparte, clerk of the apostolical chamber in 1441. Mucio is here qualified with the addition of 'the most distinguished man of his time and country;' *Clarissimo suae ætatis et patriae viro.* Another work in Italian entitled the *History of the Joyous Knights* [*cavalieri gaudenti*] *of our blessed Lady, the virgin Mary of Treviso,* contains a detailed account of the Bonaparte family, and purports to have been printed at Venice in 1787. From the first sentence in this account, it would seem that the original family name was Parte, Dalla Parte, and that they received from the opposite factions of the Guelfs and Ghibelines, which then distracted the country, the *sobriquets* of Good part and Bad part, Malaparte and Buonaparte, the latter of which they naturally preferred and adopted as a name. This at least we take to be the meaning of the following phrase in the account, the construction of which is a little obscure, and which is not translated or noticed by Louis in his remarks. Nobilissima fu la prosapia ed antica dei dalla Parte in Trevigi, per le fazioni Guelfe e Ghibellini dette Malaparte e Bonaparte. Nondiglio, one of this family, a man of learning and authority according to the account, was *podestat* of Parma as long ago as the year 1272, and after

leaving his office was created one of the Joyous Knights, an order it seems of great dignity, whose object it was to resist heresy and support the church. Nondiglio founded a hospital. His brother Bonsembiante was equally distinguished and passes for a saint. Peter Bonaparte, the son of Nondiglio, was also a great character, and liberated Treviso from the tyranny of the princes Caminesi, in consequence of which the family were presented by the city with the castle of St. Zeno, and the exclusive right of wearing arms within and without the walls. Louis relates that a memoir on the antiquities of the family was at one time presented to Napoleon, in which it was proved by extracts from the archives of various cities in Italy that the family were anciently lords of Treviso. Napoleon paid no attention to it but threw it in the fire, observing that he wished his nobility to date from himself, and to hold his titles only of the French people. This remark was more honorable to him than the silly passion he contracted in the latter part of his reign, for the parade and ceremony of the old court, and which it is well known he carried to a ridiculous excess. The court ladies gave him the title of Monsieur de l'Etiquette. Respecting the antiquity of the family, it is related by Louis, that when Napoleon was about to marry the archduchess Marie Louise, her father said to some one who remonstrated against an alliance with a military adventurer of low origin, that he would not have consented to the marriage, if he had not known that the family of Napoleon was as noble as his own. It was a singular piece of self deception, if the emperor Francis had satisfied himself that the antiquity, real or supposed, of the Bonaparte family, had any considerable weight in inducing him to consent to this alliance. The branch of this family, from which Napoleon descended, settled very anciently at Ajaccio in Corsica. Charles Bonaparte, his father, was a man of distinction in the island. He fought for its independence under Paoli, and after it was added to France, he frequently acted as the deputy of the nobility to the court of Louis XV. The mother was named Ramolini and was of the family of the Counts Colalto. The first of the name, that settled at Ajaccio, had married a daughter of the Doge of Genoa. At the time when Paoli gave up the island to the English, they abandoned it and settled near Toulon and afterwards at Marseilles. A class of writers, who conceive that they raise the character of their

own party, by ascribing every description of vice and degradation to the family and person of an individual who was able to rule them with a rod of iron for twenty years, have asserted that Madame Bonaparte and her daughter lived at Marseilles in a state of debauchery. Louis repels this calumny (which is repeated in the Biographie des hommes vivans) with success; observing that the family were necessarily at this time at the head of the society at Marseilles, Napoleon being then the first artillery officer at the seige of Toulon in the neighbourhood, and of course the second person in the army there. At the same time Joseph married the daughter of Mr. Clary, one of the first merchants of the place, one of whose sisters is now the queen of Sweden.

Louis received a military education and was attached at a very early age to the staff of his brother. He gives the following brief notice of the circumstances attending the first elevation of the latter to the rank of commander in chief. At the time in question Napoleon was a Brigadier General.

'About this time a general promotion took place in the army. Napoleon was appointed commander in chief of the artillery of the army of the west against the Vendeans. He was highly offended at this change, and repaired to Paris to remonstrate against so crying an injustice. This was soon after the event of the first of Prairial, when the populace of Paris besieged the Convention and massacred its president Farrand. They went on not only to change the station of Napoleon, but even to remove him from the artillery, giving him a brigade of infantry. This alteration he took as an insult, and lived at Paris without public employment till the 13th Vendemaire, about five months.

'At that time all the soldiery and especially all the general officers were called to the defence of the Convention, when attacked by a great number of the Parisian populace. Napoleon received the second command; but the deputy who was the commander in chief depended entirely upon him for the necessary arrangements. In a few moments all the attacks were repulsed, the assemblages dispersed, and the new constitution and the directory were established. He then was appointed commander in chief of the army of the interior, and soon after of the army of Italy.'

Louis accompanied his brother in the first Italian campaign and afterwards in that of Egypt, the details of both of which he goes over in a cursory manner. Upon his brother's re-

turn and elevation to the consulship, he was appointed colonel of a regiment of dragoons, and sent to serve in Normandy, where the troubles had not quite ceased. Peace soon followed in this quarter, but it was thought expedient that some of the rebel leaders should be brought to a court martial, and Louis was called upon to preside. This, however, he obstinately refused, nor could any threats or entreaties induce him to consent. He even protested against the judgment of death passed upon these persons, but without effect. His regiment was soon after recalled to Paris, and from this time he lost in a great degree the good will of his brother.

It appears, however, to have been a favourite object with his brother and with Josephine to effect a marriage between her daughter Hortensia de Beauharnois and Louis. The scandalous motives which have been assigned for this anxiety we shall not recapitulate, as they receive no countenance from the narrative of Louis, although he does not give them a direct contradiction. He was evidently in the highest degree averse to the connexion. The proposition was made to him soon after the return of Napoleon from the second campaign in Italy, and he then gave it a decided refusal, not as he says from any objection to the reputation or morals of the young lady who was liked by every body, but because he feared that their characters were not suited to each other. Not long after the proposition was renewed but with no better success, and to escape from further importunity on this point, Louis undertook a journey of several months in Germany. Upon his return from this expedition, he was assailed by a new repetition of the same proposal. An expedition was then organizing for Portugal, in which he contrived to have his regiment included, and thus obtained a new pretence to elude the importunities of his over kind connexions, who, like so many of the fathers and uncles in romance, were obstinately bent upon making him happy against his will. After his return from Portugal they returned with fresh spirits to the charge, and finally succeeded in obtaining his consent; which, however, could not have been given with a very good grace, if we may judge by the terms in which Louis describes the conclusion of the ceremony.

'Immediately after his return, his sister-in-law spoke to him again of his marriage. He was invited to her house daily. Louis

constantly refused his consent to this project, of which the execution seemed to him impossible. Notwithstanding this, one evening when there was a ball at Malmaison, his sister took him aside, his brother joined the conference, and after a very long conversation *they made him give his consent*, on lui fit donner son consentement. The day of the ceremony was fixed, and on the 4th January 1802, the contract, the civil marriage and the religious ceremony took place. Louis was married. *Never could a ceremony be more unpleasant ;* never could two persons feel a more lively presentiment of all the horrors of an unwilling and ill assorted union. From this his unhappiness, his bodily and mental sufferings take their date. There cannot be a misfortune more actual and direct than domestic unhappiness. This of Louis weighed on his spirit and produced throughout his life a deep sorrow, a feeling of discouragement, and a *drying of the heart*, if one may so say, which nothing ever did or could remedy.'

In 1804 he was appointed a brigadier general. He mentions the death of the Duc d'Enghien in strong terms of regret and horror, and declares that Napoleon was certainly drawn into the adoption of this measure in a hasty and perfidious manner.

We now arrive at the period when Louis was elevated to the throne of Holland. The first intimation he had of his brother's intentions in this respect was conveyed to him during the campaign of Austerlitz. At that time Louis commanded a corps of troops stationed in Holland, to protect the northern portion of the empire against a diversion on the part of Prussia, and his conduct was publicly praised by Napoleon. After the close of the campaign he sent back the greater part of his troops to Paris, and went himself to meet his brother at Strasburgh. He was received with coolness, and Napoleon intimated that he should have preferred to have had him remain in Holland, and retain military possession of it.

'" Why have you left Holland ?" said he to Louis ; " I wished you to be there, you ought to have staid there." " When peace was once concluded," returned the latter, " I endeavoured to repair the error, with which you reproached me in your letters, by sending back to their posts the troops which I had drawn from thence to form the army of the north. I acknowledge," added he, " that the reports which were circulating in Holland of me, and certain changes in the government of that country, hastened

my departure. These reports are of a nature to displease that free and estimable nation, and are also disagreeable to myself." '

The emperor gave him to understand that the report which had been in circulation was correct, and that he was to be created king of Holland. Louis gave himself but little trouble about it and thought that he should escape without difficulty from the honour intended him, and of which he was not ambitious. One would suppose that his previous experience in the article of matrimony, might have instructed him a little better, and the result soon proved that he had flattered himself with escaping from being a king, too soon and to little purpose. Five months after, in the spring of 1806, there arrived at Paris from Holland a deputation of five ambassadors, men of high rank and consequence, to negociate upon the affairs of their country. Couriers were despatched, instructions were demanded, and notes were exchanged; and in four months a treaty was concluded, by which the republic of the United Provinces was transformed into the constitutional monarchy of Holland.

During these negociations Louis received no official intimation that his personal interest was at all connected with them. At last the ambassadors informed him privately what was going on, and assured him that the nation gave him the preference for king. He began now to take his measures for avoiding the place, but still Napoleon did not condescend to hold any communication with him on the subject, and made him an insulting and evasive answer, equivalent to the coarse vernacular proverb, that he need not be frightened before he was hurt. Every thing being at last arranged, the emperor informed him that he was to be king of Holland, and that if he had not been hitherto consulted, it was because the duty of a subject was to obey: a singular reason for treating a sovereign elect in this manner. Louis still held back; but little account however was taken of his objections, attributed perhaps to feigned or real modesty. Prince Talleyrand shortly after made him a visit at St. Leu, and read the treaty and constitution to him and his wife the future queen. This was the first official knowledge they had of these papers. He was asked whether he approved them. He replied that not having been in the secret of these negotiations, it was impossible to form any opinion on so important a subject. He would endeavour to do his best. He was then informed that the third

day after, he would be proclaimed king of Holland. When the day arrived, he received an invitation in the ordinary form to go to St. Cloud. An ambassador from Turkey with presents was to be presented the same day, and after this business had been first dispatched, an audience was allowed to the deputies of Holland, who requested in a formal speech that his majesty's brother, prince Louis, might be granted them for king. The emperor very graciously consented to their request, and the ceremony concluded with a speech from the new monarch.

Such was the game of high life below stairs habitually played by this great disposer of crowns and sceptres. It is difficult to say, whether this cold-hearted contempt for the feelings of his nearest connexions, displayed greater want of humanity or policy. His mother said of Napoleon that his heart was as hard and as cold as a cannon ball, and the unnecessary and wanton affronts which he thus took occasion to heap upon poor Louis, at the moment when it came within the 'scope of his policy' to make him a king, are a good proof of the remark. There is also a strange incoherence, producing an effect which borders very nearly on the ludicrous, between the lofty and splendid images which we are accustomed to associate with the royal name and office, and the series of degradations and humiliations which we see here connected with the assumption of it. We should perhaps be less struck with this contrast, if the secret histories of ancient and *legitimate* courts were more generally known. It would probably be found for the most part a tissue of frivolity and vice. But something better might have been reasonably expected from a ruler elevated by the force of his own character, and placed in a sort of opposition to the vices and follies of the old governments. The consciousness of talent seems, however, only to have encouraged him to practise the same corruptions with greater audacity. We are afraid, after all, that the possession of unlimited power, whether by inheritance or acquisition, corrupts at once both the heart and the judgment, and that the best if not the only chance a nation can have of an administration upon tolerably correct principles, is to put the effective power into the hands of plain, elected, responsible magistrates.

We shall not follow the new king through the details of his internal administration. The finances of the country were

in a desperate state at the time of his arrival, and all commerce was cut off excepting the contraband trade. Louis appears to have connived at this traffic, which perhaps was necessary to the very existence of so commercial a people as the Dutch. In this way he gave mortal offence to his brother, who lost no time in displaying his ill humour in various ways. Among other unpleasant circumstances attending his position, Louis was subjected to the inconvenience of seeing himself occasionally represented in newspaper articles and public documents, as saying things which he not only never thought of, but which were directly contrary to his views. Thus in the attempt made to open a negotiation by Lord Lauderdale in 1806, the French government remarked, in their answer to the English minister's first note, that 'Prince Louis, when he accepted the crown of Holland, *formally declared* his intention to renounce it, if the Dutch colonies were not restored at a general peace.' 'Not only,' says the present work, in which the third person is used habitually in speaking of Louis, 'not only had Louis never made any such formal declaration of his sentiments, but he had heard nothing of the matter till he saw the note in the newspapers.' This rhetorical artifice, intended to increase the effect of certain remarks which he wished to make, was frequently practised by Napoleon. The unfortunate Marshal Ney was surprized one morning to see in the Moniteur a letter bearing his signature, with which he was entirely unacquainted, and Napoleon at the audience perhaps did not increase his satisfaction by saying to him in a good natured way, 'I have made you talk for the first time, my dear marshal, like a man of sense.' *Je vous ai fait faire de l'esprit.* Though a man of acknowledged bravery, the marshal's reputation for wit was not very high.

At the close of the year 1806 the famous Berlin decree was enacted, which prohibited all commerce with England, and Louis was required to enforce it in Holland. He could not absolutely refuse to take some analogous measures, but would not consent to re-enact the decree, and upon the whole he failed to give satisfaction. He was soon after called upon to sequester all English property in Holland. This he declined; and a proposition to seize the property of the Prince of Orange, now king of the Netherlands, in the public stocks, met with a similar fate. Great complaints were made of the contraband traffic, to which Louis coolly replied,

that you might as well attempt to prohibit the perspiration of the skin, as to interdict all commerce in a country situated like the Netherlands ; *Empêche donc*, said he, *la peau de transpirer*. At another time he was standing on one of the quays, with some of his French courtiers about him, whose real function was probably that of spies for Napoleon, when they saw a Swedish and an American vessel coming up with their respective flags flying, Sweden being at that time on bad terms with France. The circumstance was mentioned to Louis by one of his attendants, but he coldly replied, that he saw nothing but a merchant ship, and turned his back upon the officious informer. The existence of this system of administration could not fail to be discovered and resented by the French government. After the conquest of Prussia in the year 1806, Louis sent a deputation to Berlin to congratulate him upon his achievement. The emperor, elated with these prodigious successes, was not disposed to pay great attention to the conscientious scruples of his brother, or to stand much upon ceremony in telling him so. Instead of giving the deputation a gracious reception and thanking them for their compliment, he loaded them and their master with the grossest outrages and insults. Louis was cruelly astonished at this return for all the good he had been doing in Holland for the six months past, and ascribes it to his brother's ill humour at the little success of the continental system in that country. He adds, however, that he thought it his duty to pay no attention to his threats or discontent. He had adopted as his favourite sentiment the Dutch maxim, *Doe wel en zie niet om, Do your duty without regard to consequences.* About this time he instituted an order of knighthood, called the Order of Union, of which the above phrase was the device.

The dissatisfaction of Napoleon began pretty soon to display itself in something more substantial than threats and insults, and in the course of the year 1807 he compelled Louis to conclude a treaty of cession of some considerable provinces, including the city of Flushing. A still more extensive cession had been hinted at, by the French ambassador, M. de la Rochefoucault, comprehending the greatest part of Brabant and Zealand, which Louis rejected with some expressions of humour. He afterwards wrote a letter to Napoleon on the subject, and received the following answer, which affords a good specimen of the imperial epistolary style.

We subjoin the original of this letter, as a specimen of the imperial author's manner.*

'My brother, I received your letter relative to the overture which was made by M. de la Rochefoucault. He was authorized only to make it indirectly. Since this change is unpleasant to you, it shall be thought of no more. It was useless to make me this *étalage* of principles, since I never said that you ought not consult the nation. Intelligent Hollanders had given to understand that it would be indifferent to Holland to lose Brabant, full of fortified places, which cost a great deal, and which has more affinity with France than Holland, in exchange for the provinces of the north, rich and convenient to you. But again, since this arrangement is unpleasant to you, there is an end of it. There was no necessity even for speaking to me of it, since M. de la Rochefoucault was directed only to sound you on the affair.'

About this time Napoleon was making his arrangements to take possession of Spain, and conceived the idea of transferring Louis to the throne of that country. He probably thought that his conscientious character would be less immediately inconvenient in Spain, and that having removed him from Holland, he could make any disposition of it he thought proper. He accordingly addressed a letter to Louis, as early as March 27, 1808, proposing this plan, intimating, among other reasons, that *the climate of Holland was not good for his health:* a manner of treating the subject which seems to have displeased Louis very much. He observes that the proposition struck him with surprise and indignation. He was on terms of friendship with Charles IV of Spain, so that the whole measure appeared both impolitic and unjust; and he also regarded himself as bound by his oath to Holland. He did not like the idea that his brother should treat him as a prefect or governor, whom he could transfer at pleasure from

* 'Mon frère, je reçois votre lettre relative à l'ouverture qu'a faite le sieur de la Rochefoucould. Il n'a été autorisé qu'à la faire indirectement. Puisque cet échange ne vous plaît pas, il n'y faut plus penser. *Il était inutile de me faire un étalage de principes,* puisque je n'ai jamais dit que vous ne deviez pas consulter la nation. Des Hollandais instruits avaient fait connoître, qu'il serait indifférent à la Hollande de perdre le Brabant, semé de places fortes, qui côutent beaucoup, qui a plus d'affinité avec la France qu'avec la Hollande, en l'échangeant contre des provinces du nord, riches et à votre convenance. Encore une fois, puisque cet arrangement ne vous convient pas, c'est une affaire finie. Il était inutile même de m'en parler, puisque le sieur la Rochefoucould n'a eu ordre que de sonder le terrain.'

one province to another. Louis would perhaps have done well to recollect, that, looking at the matter in a cool and dispassionate point of view, he could not possibly regard himself in any other light, and that his only choice was between renouncing his throne at once, or holding it as a lieutenant of Napoleon, and an agent in his service. His system of administration throughout is, as we have observed, more remarkable for good feeling, than good judgment. He refused, however, categorically the exchange proposed, and the crown of Spain was given to Joseph, who did not feel the same scruples about abandoning Naples. The following is the letter of Napoleon above mentioned.*

'My brother, the king of Spain has just abdicated. The Prince of Peace has been thrown into prison. An insurrection has broken out at Madrid. In this juncture my troops were 40 leagues from Madrid; the grand duke de Berg was to enter it on the 24th with 40,000 men. Up to this hour the people loudly call for me. Certain that I shall never have a solid peace with England, except by giving a great movement to the continent, I have resolved to place a French prince on the throne of Spain. *The climate of Holland does not agree with you.* Besides, Holland cannot arise from its ruins. In this whirlwind of the world she cannot support herself, whether peace take place or not. In this situation of things, I think of you for the throne of Spain. You will be the sovereign of a generous nation of eleven millions of men, and with important colonies. With economy and vigour, Spain can have sixty thousand men under arms, and fifty vessels in her ports. Answer me categorically, what is your opinion on this project. You see this is yet nothing but a project, and, though I have a hundred thousand men in Spain, it is possible, by the circumstances which may occur, either that I march directly, and every thing be done in fifteen days, or that I proceed more slowly, and that this should be the secret of many months of operations. Answer me categorically, *If I name you king of Spain, will you accept the throne? Can I depend upon you?* As it is possible, that your courier may not find me at Paris, and that therefore he will have to pass through Spain in the midst of accidents, which cannot be anticipated, answer me only these two words: "I have received your letter of such a date, I answer *yes*," and then I shall depend on your doing what I wish: or otherwise *no*, which will tell me that you do not accept my proposition. You can after-

* 'Mon frère, le roi d'Espagne vient d'abdiquer. Le Prince de la Paix a été mis en prison. Un commencement d'insurrection a éclaté à Madrid.

wards write a letter, and develop your ideas in detail, in regard to your wishes; and address it under cover to your wife at Paris. If I am there, she will send it to me; if not, she will return it.

'Do not admit any person to your confidence, nor speak to any one whomsoever, I beg you, on the subject of this letter, for a thing ought to be done, before one is willing to own that he has thought of it,' &c.

Finding that Louis could not be prevailed upon to enforce the continental system, Napoleon, in September 1808, prohibited the entry of colonial produce into the empire from Holland, a measure which induced Louis to publish a decree, enforcing the system a little more strongly; after which the prohibition was repealed. The feelings of Louis at this time toward his brother are well illustrated by an anecdote he relates of a conversation with Prince Dolgoruky, the Russian

Dans cette circonstance, mes troupes étaient éloignées de 40 lieues de Madrid; le Grand Duc de Berg a dû y entrer le 24 avec quarante mille hommes. Jusqu'à cette heure le peuple m'appelle à grands cris. Certain que je n'aurai de paix solide avec l'Angleterre, qu'en donnant un grand mouvement au continent, j'ai resolu de mettre un prince Français sur le trône d'Espagne. *Le climate de Hollande ne vous convient pas.* D'ailleurs la Hollande ne saurait sortir de ses ruines. Dans le tourbillon du monde, que la paix ait lieu ou non, il n'y a pas de moyen pour qu'elle se soutienne. Dans cette situation des choses, je pense à vous pour le trône d'Espagne. Vous serez souverain d'une nation généreuse, de onze millions d'hommes, et de colonies importantes. Avec de l'economie et de l'activité, l'Espagne peut avoir soixante mille hommes sous les armes, et cinquante vaisseaux dans ses ports. Répondez-moi catégoriquement quelle est votre opinion sur ce projet. Vous sentez que ceci n'est encore qu'un projet, et que, quoique j'aie cent mille hommes en Espagne, il est possible, par les circonstances qui peuvent survenir, ou que je marche directement, et que tout soit fait dans quinze jours; ou que je marche plus lentement, et que cela soit le secret de plusieurs mois d'opérations. Repondez-moi catégoriquement: *Si je vous nomme roi d'Espagne, l'agréez-vous? Puis-je compter sur vous?* Comme il serait possible que votre courier ne me trouvât plus à Paris, et qu'alors il faudrait qu'il traversât l'Espagne au milieu des chances que l'on ne peut prévoir; repondez-moi seulement ces deux mots: J'ai reçu votre lettre de tel jour, je reponds *oui*, et alors je compterai que vous ferez ce que je voudrai: ou bien *non*, ce qui voudra dire que vous n'agréez pas ma proposition. Vous pourrez ensuite écrire une lettre où vous développerez vos idées en détail sur ce que vous voulez, et vous l'addresserez sous l'envelope de votre femme à Paris. Si j'y suis, elle me la remettra; si non, elle vous la renverra.

'Ne mettez personne dans votre confidence, et ne parlez, je vous prie, à qui que ce soit de l'objet de cette lettre; car il faut qu'une chose soit faite, pour qu'on avoue d'y avoir pensé etc.'

ambassador, on the possibility of enforcing a prohibition of commerce in Holland. 'We live on hope,' said Louis, 'and by expedients, as Providence permits,' *comme le ciel le permet.* The ambassador, in allusion to the word *Providence,* and wishing to ascertain whether the king had authorized any secret relaxation of his prohibitory measures, quoted with a smile the following line from one of the French poets: *ah! sire,* said he,

'Il est avec le Ciel des accommodemens.'

Oui, monsieur, says Louis, *mais il n'en est point avec l'Enfer,* and changed the conversation.

The relations between Holland and France continued in this uncertain and unfriendly state, till towards the close of the year 1809. In the summer of that year the British made a descent upon the island of Walcheren in Zealand, which turned out more unfortunately than almost any expedition of the war. One of its effects was to hasten the crisis of affairs in Holland. A French army had been collected in the bordering provinces of the two countries to repel the British, and, after the latter had disappeared, it was thought prudent by Napoleon to improve this opportunity for executing the project of union, which he had for some time been meditating. The French troops accordingly began to march into Brabant and Zealand. Under these circumstances it was necessary for Louis to come to some decisive resolution with regard to his own conduct. He seems to have inclined to the idea of concluding an alliance at once with England, and opposing by force the Emperor's aggressions. This determination, however magnanimous and spirited, would have been evidently desperate and disastrous to the country. It is true that the Dutch had succeeded a century before by cutting the dikes, in opposing a temporary resistance to Louis XIV, until the coalition of the powers of Europe could come to their aid. At present nothing could be hoped from the continental states, who had all been crippled in the campaign of 1809, nor after the expedition of Walcheren had just ended as it did, could much assistance be looked for from England. Indeed the European powers probably considered the fate of Holland as decided when it was placed under the government of Louis, and would hardly have thought it worth while to engage in a war to prevent a union from taking place, which already

existed in substance. Such were the ideas of the ministry in Holland, and Louis was advised not to attempt an open resistance, but to endeavour, by making his brother a visit at Paris, to conciliate his good will, and change his determinations. These had already been announced by the Emperor without much disguise. After concluding at Schoenbrunn, the treaty of 1809, he was heard to say to his officers : *we have finished our work here ; we have nothing to do now but to march against Spain, and especially against Holland.* Louis arrived at Paris the first of December of the same year.

He had but little reason however to be satisfied with the success of his journey. If he had been treated with coldness and contempt at the time of his appointment to the crown, he was now made the object of outrage and almost of personal violence. He was placed under guard in his house, and constituted virtually a state prisoner. Advantage, however, was taken of his presence to make an overture to the British ministry for the revocation of the orders in council ; a private agent, M. Labouchère, of the house of Hope & Co. of Amsterdam was despatched to sound Lord Wellesley, ostensibly as from the government of Holland, and to let him know, that if the orders were not repealed, Holland would certainly be united to the French empire. The British government, considering their decrees as retaliatory upon France, and not being willing to take the first steps in a common repeal, declined the overture. Every effort was now employed by Louis to prevent the union, although it is rather difficult to imagine what advantage he could expect by protracting a little longer a state of embarrassment, which could not well be expected to have any other conclusion, considering the absolute inconsistency of the objects of Napoleon in placing him in Holland, and the principles of government he had adopted. In answer to a letter demanding an explanation of the Emperor's views upon Holland, the following reply was made by Napoleon.

' Sir, my brother, I received the letter of *your majesty.* You wish I should give you to know my intentions with respect to Holland. When your majesty mounted the throne of Holland, a part of the Dutch nation desired a union with France. The esteem, which I had been taught by history to feel for that brave nation, led me to desire that it should preserve its name and its independence. I drew up a constitution myself, which was to be the base of your majesty's throne, and I placed you on it. I hop-

ed that, educated near myself, you would have had that attachment to France which she has a right to expect from her children, and still more from her princes. I hoped, that educated in my policy, you would have felt that Holland, conquered by my people, owed its independence solely to their generosity; that Holland, weak, without alliance, and without army, would and should be conquered the day she opposed herself directly to France; that you had no right to separate your policy from mine, and that finally, Holland was bound by treaties with me. I hoped, that in placing on the throne of Holland a prince of my own blood, I had discovered the *mezzo termine*, which would conciliate the interests of the two states, and unite them in a common interest and a common hatred to England, and I was confident I had benefited Holland, as by my act of mediation I had Switzerland. But I soon found that I had amused myself by a vain illusion; my hopes were deceived. Your majesty, on mounting the throne of Holland, forgot you were a Frenchman, and you have tried all the resources of your reason, and tormented the delicacy of your conscience to persuade yourself that you belonged to Holland. The Dutch citizens who inclined most to France were neglected and persecuted, those who served the interests of England were advanced. Frenchmen of all ranks have been expelled or degraded, and I have had the grief of seeing in Holland, under a prince of my blood, the French name exposed to disgrace. But I carry so deeply in my heart, and have been able to bear so high on the bayonets of my soldiers the reputation and honour of the French name, that it does not belong to Holland, or any one else, to slander it with impunity. The speeches of your majesty to the nation have been distinguished by a disaffected disposition. There is seen there nothing but allusions to France, and instead of giving the example of an oblivion of the past, they recall it constantly, and thus flatter the secret passions and feelings of the enemies of my government. But what do these Hollanders complain of? are they not conquered by our arms? do they not owe their independence to the generosity of my people? ought they not to bless the generosity of France, which has constantly left open their canals and customhouses, which has employed its conquest only to protect them, and even to this hour has used its power only in consolidating their independence. Who then can justify the conduct of your majesty, insulting to the nation and offensive to myself. *You are to understand that I do not separate myself from my predecessors, and that from Clovis to the committee of public safety I regard myself as the responsible representative of the whole*, and that the ill which is fondly said of the governments which have preceded me, I take as said in the intention of insulting

myself. I know that it has become customary with some to eulogize me and decry France; but those who do not love France do not love me; those who speak ill of my people are my greatest enemies. If I had no other reason of discontent than the sight of the disgrace, into which the French name had fallen in Holland, the right of sovereignty permitted me to declare war against a prince, my neighbour, in whose dominions such insults were permitted against my people. But from this I have refrained.

But your majesty is mistaken in my character; you have a false idea of my kindness and of my sentiments towards you. You have violated all the treaties you have made with me. You have dismantled your fleets, disbanded your sailors, and broken up your armies, till Holland is without forces on land or at sea; as if warehouses, merchants, and committees could consolidate a nation. These make a rich association, but the royal power cannot exist without finances, without a regular system of recruiting, and without a fleet.

'Your majesty has done more. You profited of the moment, when I was embarrassed on the continent, to renew the relations of Holland with England, and to violate the blockade-laws, the only successful means of annoying her. I showed my discontent with this conduct, by laying an interdiction with France, and I caused her to feel that even without the assistance of my armies, by closing the Rhine, the Weser, the Scheldt, and the Meuse against Holland, I could place her in a more critical situation than if I had declared war against her, and that I could insulate her to a ruinous degree.

'This blow was felt in Holland. Your majesty implored me to be generous, appealed to my fraternal sentiments, and promised a change of conduct. I thought this would be sufficient warning. I took off the interdiction of my customhouses, but your majesty soon returned to your former system. It is true that I was then at Vienna, and had a heavy war on my hands. *All the American vessels which, on being driven from the ports of France, offered themselves at those of Holland, were admitted by your majesty.* I was obliged a second time to shut my customhouses against the Dutch intercourse. Certainly it was difficult to make a more authentic declaration of war. In this state of things we may be considered as actually at war. In my speech to the corps legislatif I gave them to understand my discontent, and I shall not conceal from you, that it is my intention to unite Holland to France as a complement of the territory, as the most fatal blow I can inflict on England, and as freeing me from the continual insults which the leaders of your cabinet are constantly offering me. In fact, the mouths of the Rhine and the Meuse

ought to belong to me. The principle that the channel [talweg] of the Rhine is our boundary is a fundamental principle. Your majesty wrote me, in your letter of the 17th, that you are sure of being able to destroy all commerce of Holland with England; that you can raise finances, armies, and navies; that you will establish the principles of the constitution in giving no privileges to the nobility, in abolishing the marshals, *which is but a caricature,* and which is incompatible with a power of the second rank; in fine, that you would *seize* all the deposites of colonial merchandize, *and all that has arrived in American vessels, which ought not to have entered your ports.* It is my opinion that your majesty has promised more than you can perform, and that the union of Holland with France is but deferred. I allow that I have no more interest to unite the territories on the right bank of the Rhine to France, than I have to unite to it the grand duchy of Berg and the Hanseatic towns. I then can leave Holland all the territory on the right bank of the Rhine, and I will repeal my acts of nonintercourse whenever the treaties already existing, and which shall be renewed, shall be executed. The following are my intentions, with respect to

'1. Interdiction of all commerce and intercourse with England.

'2. A navy of 14 ships of the line, 7 frigates, and 7 brigs or corvettes, armed and equipped.

'3. A land force of 25,000.

'4. The suppression of the order of marshals.

'5. The abolition of the privileges of the nobility, contrary to the constitution which I gave and guarantied.

'Your majesty can negotiate with the Duc de Cadore, by interposition of your minister; but you may rest assured that at the first packet-boat, the first vessel which shall enter Holland, I will re-establish the non-intercourse, and that at *the first insult, which is offered to my flag, I will cause to be seized by force and hung at the yard-arm, the Dutch officer who dares to insult my eagle.* Your majesty will find in me a brother, if I find a Frenchman in you; but if you forget the sentiments which attach you to our common country, you will not complain if I forget those of the relations which nature has placed between us. In fine, the union of Holland and France will be of the utmost utility to France, Holland, and the continent, *for it will cause the utmost annoyance to England.* This union may take place either peaceably or forcibly. I am sufficiently aggrieved by Holland to declare war. Notwithstanding this, I shall be ready to agree to an arrangement which shall cede me the boundary of the Rhine, and by which Holland shall engage to fulfil the conditions stipulated above.

'Your affectionate brother.

[Signed] 'NAPOLEON.

'*At Trianon, Dec.* 21, 1809.'

A treaty was at length concluded upon the basis of the proposition contained in this letter, and signed March 16th, 1810. It provides for the introduction of a body of French troops into Holland, to cooperate with the Dutch troops in enforcing the continental system. The following is also in the number of the articles.

10. All merchandise brought by American vessels, which have arrived in the ports of Holland since the first of January 1809, shall be sequestered and shall belong to France, to be disposed of according to circumstances and her political relations with the United States.

By virtue of this article, a large amount of American property was subsequently delivered to the French government, and thus lost to the owners. We understand that an attempt has been made by our government to obtain satisfaction for their loss from the present government of the Netherlands, as responsible for the acts of the nation under a former government, but without effect.

By this treaty a great part of the Dutch provinces south of the Rhine was ceded to France, and Napoleon soon after made a visit to his newly acquired country. His troops were at the same time introduced into the remaining provinces, and as Louis did not exhibit all the good humour under this operation that might perhaps have been politic, it soon became pretty evident that Napoleon intended to execute his original plan, and to unite the whole country to France. Louis seems to have intended, in submitting to the humiliating conditions that had been imposed upon him, to put Napoleon as much as possible in the wrong, that he might in the end appeal with greater advantage to the spirit of the people, for the purpose of making an active resistance. When at last the French commandant was about to place a garrison in Amsterdam under the king's eyes, he thought the decisive moment had arrived. His own resolution was to cut the dikes, to place the country in a posture of defence, and resist, if necessary, to the last drop of blood. Upon communicating this plan to his principal advisers, military and civil, he was astonished to learn that nobody agreed with him in opinion. Finding the crisis at hand, several of the more considerable among them had obtained leave of absence from court, in order to recruit their health at the watering places. The rest strongly dissuaded him from desperate measures.

Seeing that he was alone in his opinion, he finally determined to abdicate in favour of his son, and this resolution was carried into effect the first of July. Louis intended by this measure to deprive Napoleon of his pretext for uniting the country to France; but the emperor was not a man to be cheated in this way of his prey. It was always his maxim, as he says in one of his letters to Louis, to come directly to the point. The act of abdication was pronounced to be a nullity, and the country was formally united a few weeks after to the French empire.

Thus ended the tragi-comedy of the administration of king Louis in Holland. If it was chimerical to think of resisting, by force, the will of Napoleon, before his visit to Paris, and while Holland was still clear of foreign troops, it would have been little better than madness to undertake it at a time when the French forces already garrisoned all the towns. The ministers of Louis seem to have viewed the state of things throughout, with a much sounder and more correct judgment than the king; and in fact if the inhabitants of Holland had found themselves unable to defend their liberty and independence against foreign influence, but had been for thirty years the almost unresisting prey of every conqueror, how could it be expected that they would be suddenly inspired with such a desperate resolution, from regard for the interests or rights of a stranger, whose presence in the country was itself a sufficient proof of their incapacity to make any effectual head, against a powerful invader?

Louis retired, after his abdication, first into Austria, and afterwards into Switzerland. Some attempts were made by the French government to induce him to return to France, and M. de Cazes, who has since acted so conspicuous a part in France, but who was then private secretary to Madame Mère, and had lately held the same post under Louis, was twice despatched to make him some overtures to this effect, which Louis declined. He also made a formal protestation against the union of Holland to France in an official document, which he privately delivered soon after to the Emperors of Austria and Russia, and which is now published; and he subsequently declined, in a public manner, the provision made for him and his family by the French government, as well as the allowances stipulated in their favour at Fontainbleau, at the time of the Emperor's abdication. These official papers are sufficiently interesting, but too long to be extracted.

Upon the Emperor's first reverse in Russia, Louis made some attempts to avail himself of the new state of things, to recover the possession of his lost crown. For this purpose he addressed to Napoleon the following letter, and received the answer annexed.

'Deeply afflicted by the sufferings and losses of the grand army, after successes which have carried the French arms to the pole, being able to judge easily how you must be occupied, how urgent the necessity is of uniting all the possible means of defence at the moment, in fine, when a terrible struggle is to be continued and to become still more furious, convinced that there never was a more critical moment for France, for your fame, and for yourself, I should feel myself deficient in the discharge of every duty, if I did not yield to the strong impulse of my heart. I wish then, Sire, to offer to the land of my birth, to yourself, and to my name, the little health which remains to me, and all the services of which I am capable, if I can but have an honorable justification for doing it.

'Sire, I belong to Holland, to whom you gave me in spite of myself. I did not quit my kingdom, till after having struggled with my situation as long as it was morally possible for a Frenchman and your brother to do so.

'At present the affairs of Holland and commerce are of secondary importance; it is possible that it is your intention to recall to you your brother, and that it will be important to secure Holland by it. In this event, deign to reestablish a kingdom which was your own work, and I am ready to aid France and your majesty by every effort, in the great struggle, which is undoubtedly about to continue more fiercely than ever. If such should be your intention, I ask of you only a public act, which shall give to be understood what has been and what is to be my situation.

'I know, Sire, that my efforts and resources are of little value, but I can offer no more.

'Whatever may have been thought of me, Sire, I have never been, nor ever could be, insensible, and a stranger to my name, to my mother, to my son.

'Whatever may be your determination and the course of events, may your majesty think of all the privations, the temptations, the solitude, the illness, &c. which I have resisted sooner than to have recourse to extremities, and be perfectly convinced that there are in me, as in the heart of every honest man, sentiments and principles which nothing can destroy.'

To this letter Napoleon made the following reply.*

'*Paris, January* 16, 1813.

'My brother, I received your letter of the 1st January, and observe with pleasure the sentiments which animate you. I have already given you to understand that your duty towards me, your country, and your children, exacted your return to France. Return then without delay, and I will receive you, not as a brother whom you have offended, but as a father who educated you. As to the ideas you have of the situation of my affairs, they are false. I have a million of men on foot, and two hundred millions in my coffers to maintain the integrity of the territory of the confederation, and of that of my allies, and to procure the success of the project I have conceived for the happiness of my people. *Holland is French forever, she is the emanation of our territory,* the embouchure of our rivers. She could not be happy but with France, and she feels it well. By remaining in France you will not separate yourself from Holland. If, by separating yourself from it, you mean ceasing to govern it, it was yourself that quitted it by your abdication,' &c.

After the battle of Leipsic, Louis made a new attempt of the same kind, and even thought of returning to Holland by way of France, provided his brother should agree it it. When he arrived at Paris he was quite astonished to find, that instead of accepting his proposal, Napoleon would not even allow him to enter the city. Upon his return to Switzerland he found letters from his brother, in which the latter, with great candor and kindness, admitted that he would rather Holland should return to the government of the prince

Paris, 16 *Janvier*, 1813.

* Mon frère, je recois votre lettre du premier Janvier et je vois avec plaisir les sentimens qui vous animent ; je vous ai déjà fait connaitre que vos devoirs envers moi, la patrie et vos enfans, exigaient votre retour en France. Vos enfans grandissent et ont besoin de leur père. Revenez donc sans plus de retard, et je vous recevrai, non comme un frère que vous avez offensé, mais comme un frère qui vous a élevé. Quant aux idées que vous avez de la situation de mes affaires elles sont fausses ; j'ai un million d' hommes sur pied, et deux cents millions dans mes coffres, pour maintenir l'intégrité du territoire de la confederation et de celui de mes alliés, et faire réussir le projet que j'ai concu pour le bonheur de mes peuples. *La Hollande est Francaise à jamais ; elle est l'émanation de notre territoire ;* embouchure de nos rivières elle ne peut etre heureuse qu'avec la France, et elle le sent bien. En restant en France, vous ne vous séparez pas de la Hollande ; mais si vous entendez par vous en séparer, renoncer à la gouverner, c'est vous même qui l'avez quittée en abdiquant, etc. etc.

of Orange, than to that of Louis. The following extract contains the narration of his journey to Paris.

'After the battle of Leipsic, the king of Naples came to Switzerland and proceeded to Basle, where his brother-in-law [Louis] was, and they had an interview. The king of Naples had returned to endeavour to preserve himself, in the event of the existence of the French government's being menaced. He advised his brother-in-law to return to Holland with the assistance of the allies. The latter replied, that he never could do it; for it would not be permitted to Holland to remain entirely neutral, and for no throne in the world would he make war on his own country. "If France is successful," said he, "what reproaches should I not merit for having drawn its vengeance on the kingdom? if she is unsuccessful, the allies, in the end, would certainly give the preference to the prince of Orange."

'However, after the departure of the king of Naples, Louis reflected maturely on the singular situation in which he found himself. He saw very well, that it was a favourable moment to endeavour to reenter Holland, that it was advantageous for the French government to renounce a country which was about to escape from her, and to establish in it a French dynasty. He sent an officer of his guard to Mayence, with orders to wait there for the Emperor, and give him a letter, in which he endeavoured to persuade his brother not to lose the opportunity of pursuing the only course, which remained to France at this moment.

'As he could not doubt that Napoleon would willingly cede to him a country which was about to fall into the hands of the allies, and as it was of urgent necessity not to lose time, he resolved to repair directly to Amsterdam, if the French Government consented, and would permit the Hollanders at Paris to follow him. He advanced towards that capital, after having written to the Empress Regent and to the Prince Cambacérés. But he was very much astonished, on arriving at Pont sur Seine, to learn that they refused to receive him at Paris. He returned then to Switzerland, where he found the answer of the Emperor, by letters from Prince Berthier and the duc de Vicence, and from the speech of the Emperor to the officer who had been sent to him. These answers were exactly conformable to each other. "*I should prefer that Holland should return to the power of the prince of Orange, than to that of my brother*," said the Emperor; "if he has a hundred thousand men to oppose to me, he may attempt to take it from me,"' &c.

Louis also made a direct address to the magistrates of Amsterdam, which seems to have been intended as an invi-

tation to them to call him to the chief magistracy. Although this document is of some length, we venture to insert it.

'*Soleure, November* 29, 1813.

'TO THE MAGISTRATES OF AMSTERDAM.

'Gentlemen, the new circumstances, in which Holland is placed, oblige me to return from my retirement; they will either complete the obligations which have attached me to your country for eight years, or free me from them entirely.

'It is, then, to understand the sentiments of the nation with respect to myself, sentiments which shall guide my final conduct, that I address myself to you, not only as to the capital of the United Provinces, but as to their natural representatives, since there is no other general representation of the country.

'When Providence permitted that I should mount the throne of your country, without having sought or desired this honor, I did not decide upon it except upon the following considerations.

'1. That the last Stadtholder had died without ever resigning the *stadtholderat*, or accepting any indemnity or compensation.

'2. That his son, the hereditary prince, on the contrary, had formally renounced, and received the principality of Fulda in return.

'3. That the princes of this illustrious house, to which your country owes so many obligations, were not at this time the sovereigns of Holland.

4. In fine, I thought that relations of friendship, and of conformity of interests with France, would contribute more than any thing else to establish a state of peace and neutrality, the first base and object of the policy of your country.

'After my arrival, I discovered very soon that to act conscientiously, it was necessary to act as the prince of an independent nation, created to be its defender and its first magistrate, and to forget entirely that accident had had the greatest share in my elevation. This I attempted to do. If the nation suffered under my reign, it would have suffered incomparably more without it. Its situation since 1810, that of Poland, Saxony, and Hamburgh prove this sufficiently.

'The years 1806, 1807, 1808, 1809, and 1810 were the most painful which can be found in the history of the interior administration of any country. When it was thought that Holland could not sustain for three months the enormous weight of its finances, which was constantly rendered more onerous by the state of its foreign relations, she resisted five years a blockade by sea and land, forced armaments, restraints and snares, obstacles of all sorts for a man entirely a stranger till then to your country, and

entirely isolated among the snares of the policy which ought to have been his guide and support, and those of the enemies of the new order of things in Holland, and the enemies of France. I made every effort possible for man. I alone know what I have done for Holland in silence and solitude. I struggled without ceasing and with perseverance, consenting to inevitable innovations with the utmost possible delay, and endeavouring to accelerate the epoch of a general peace or of a genuine independence. My object was on the arrival of this event, to consult the nation, freely assembled, and to do, without exception, whatever it should judge necessary, and for its interest.

'When, in consequence of the descent of the English at Walcheren, I was obliged to repair to Paris, as at the epoch of my abdication, my object was to resist violence, all powerful as it was, but divested of every other argument; to dispute inch by inch the approach of the catastrophe of Holland with him who had conquered all the great powers of Europe; to preserve inviolate the rights of the country, in spite of the plots and the opinions of Hollanders, secretly perverted, and, when it was necessary to yield, to *abdicate only to my children*, not to hesitate to sacrifice my personal interests to the preservation of the rights and the hopes of the country, continued by my abdication and the elevation of a minor to the throne, whom the constitution would place under the guarantee, and almost the regency of France, of whom the incapacity for thirteen years would take away even the smallest pretext against Holland, and to relieve her thus from the power of a king, whom France appeared to have chosen by her influence, merely to act as the unwilling instrument of union.

'If adopting, as I had almost done, another course of conduct, I had remained at Amsterdam, merely a machine, or even if we had been in a state to make war, the fate of Holland would have been that of Poland, Saxony, and Hamburg. You would not have been able, as you are now, to claim of all your powerful neighbours perfect neutrality and independence, and avoid the inevitable consequences of hostility. I could not be so useful to your country as the house of Orange; any other Dutch prince under the same protection would have been, to say the least, useless, even if I had allowed myself to be involved in a defence which would have served but for the plausible pretext of conquest. I ought not and I could not be useful to you, but in retaining myself independent of France, but never its enemy.

'Since my abdication, then, I have remained at Gratz in Austria; and after three years' residence in that city, I came to live in the Swiss cantons: 1. not to place myself in a state of war with France: 2. to be more ready to be of assistance to Holland, should circumstances permit.

'Already in 1812, after the retreat from Russia, I made at Gratz all the efforts in my power for the liberty of Holland; they were fruitless in spite of all my care.

'After my arrival in Switzerland three months had hardly elapsed when I learned, the 27 of last October at Basle, the retreat of the French armies on the Rhine, and the evacuation of Germany, and I anticipated that Holland would either *rise*, or be occupied by the allies.

'Faithful to my opinion, which experience has too well confirmed, I wished to profit by the only opportunity offered of establishing a counterpoise in Germany, and of the approaching evacuation of Holland, to place that country in a state of real independence and strict neutrality, the only state which is proper for Holland, without which it will be ruined sooner or later; an object equally at heart with all the belligerent powers. I sent to Mayence to the Emperor of the French, and to the Empress Regent at Paris; I demanded with the evacuation of Holland my free passage across France. If this had taken place, sure from my journey through France of her not being inimical, and of her consent, tacit but certain, I would have convoked the nation on my arrival, I would have told you my opinion, and you should have done what you judged most proper, in regard to your political situation, and that of your constitution; ready to retire, had you preferred the house of Orange to me, but not before I had fulfilled my last duty to you.

'I arrived the third of November at Pont-sur-Seine, near Paris, where I received very unfavourable answers to some of my requests, and none to the most essential. I learnt there that it was not decided to evacuate Holland; I returned to my retreat in Switzerland, where at length I received an indirect answer at Mayence, more than negative.

'In this situation I wrote to M. de Byland Hatt, one of the last presidents of the legislative body; to Messieurs Roell and Krayenhoff, former ministers; to William Willink, counsellor of state; and Professor Van Lennep, whose intelligence, and patriotism, and character are known to me. I do not know if these letters have arrived, but as I send duplicates of them with this letter, you will be able to understand their contents. My object, as you will see, is to have my conduct and sentiments known in Holland. Since, I have learned all that has passed, and in this state of things I have considered that since three years and a half, I have been isolated, wandering in strange places; that I have renounced my native country wholly and absolutely, to remain faithful to the system which I have thought would be most useful to your country; that if my adopted country for eight years escapes me, I shall find myself without country, without friend, without any bond; that in the meantime, in the important circumstances of

Europe, every thing presses me to take some step, no longer to remain the plaything of events, to become entirely free in my actions, and to finish the fulfilment of every duty I owe your land.

'In addressing myself to you, gentlemen, in regarding you as the representatives of a nation without a general representation, and demanding its decision, I believe myself discharging this last duty. Whatever this decision may be, I pray you to let me know it as soon as possible.

'I finish this manifesto, so important to myself, by a sincere wish for the happiness of Holland, and by the requests I make her in this connexion:

'1. Not to confine herself to the old constitution, but to finish that which the act of union of Utrecht only sketched, in a word, to constitute a free but monarchical government, like England and Switzerland; without this the state of Holland will be precarious and depend on various causes, extraneous to herself.

'2. Not to let herself be carried away by animosities or exaggerations; to consider that the state of peace and neutrality is the only safeguard of the country; that the armaments should be as strong as possible at present, merely to maintain the independence of the ancient territory, and the absence from it of foreign troops, and to avoid carefully becoming the theatre of the war. Whatever may be your answer, I shall remain unalterably and tenderly attached to your country.'

As the Dutch, without paying any attention to this letter, conferred the sovereign power upon the Prince of Orange, Louis considered himself as disengaged from all his obligations towards his former subjects. It is impossible not to perceive from this proceeding, as well as from the other instances of the same kind which we have pointed out, that Louis, with very good intentions, and with no small share of magnanimity and disinterestedness in his character, misconceived entirely his position in regard to Holland. He appears to have considered his nomination by Napoleon to the crown of that country, as conferring upon him a right to the government of it; and to have thought that his conduct while there had gained him the good will of his subjects. Nothing, of course, can be clearer, than that his appointment conferred no right whatever, and it is quite evident that the nation only considered him as the instrument of a foreign oppressor, fortunately less pliant to his employer's wishes than the rest, but still connected effectively with a system, which they had every reason to detest.

Being now disengaged from his obligations to his former subjects, Louis determined to return to France, and to live there as a private citizen. He arrived at Paris the first of January 1814. The Emperor at first refused to see him, and even exiled him forty leagues from the city, but by the intervention of their brother they were induced to have a meeting, which passed very coldly. He remained at or near Paris till the return of the Bourbons, but does not appear to have been on friendly terms with his brother. He remarks, however, that at this period he wrote to Napoleon almost every day, for the purpose of pressing him to agree to terms. It required indeed no uncommon sagacity to see that Napoleon was playing at this time a desperate game, but the same extravagant spirit, which made him lose the opportunities which presented themselves the year before of concluding a most advantageous peace on moderate terms, now urged him on to complete ruin. After the abdication, Louis repaired to Rome, having first obtained the Pope's permission; and has continued to reside there ever since. He had the discretion and good fortune not to take any part in the disastrous movement of the year 1815. We add here the passage, in which he speaks of his last interview with Napoleon.

'He then quitted Switzerland, proceeded to Lyons, and arrived at Paris the morning of the first of January. He alighted at his mother's abode. He could not see the Emperor, till ten days after his arrival An order was intimated to him to depart 40 leagues from Paris. The Prince de Neufchatel and the Duc de Vicence came to announce this order formally to him, which he refused to obey, because no one had the right of forbidding him to live at home.

'He saw the Emperor at last the tenth of January, by the mediation of the Empress; they met coldly without embracing. It would be difficult to describe the feelings of Louis at meeting a brother to whom his childhood had been so much indebted, but who had given such cause of complaint after his life and prospects had been sacrificed to policy and the illusions of the world. He begged his brother to pass by every thing which could concern Holland in their conversation; he promised himself to forget this country entirely during his stay in France. "If victory places it in your power," said he, "I only claim the permission to leave France, when I do not wish to stay, if France invades that kingdom a second time; if, on the contrary, victory abandons you, there will be no farther question, nor necessity of discussion."

'This is the letter of the Emperor, written with his own hand, which Louis refused to obey.*

'"My brother, I have received your two letters, and learnt with regret that you have arrived at Paris without my permission. You are no longer king of Holland, since you have abdicated, and since I have united that country to France; you ought to think no more of it. The territory of the empire is invaded, and I have all Europe armed against me. Will you come as a French prince, as constable of the empire, and place yourself near the throne? I will receive you; you will be my subject; in that quality you shall enjoy my friendship, and do what you can for the common cause. If on the contrary you persist in your ideas of king and Hollander, retire 40 leagues from Paris. I do not wish any ambiguous character, any *rôle tiers*. If you accept, write me a letter, that I can have printed."

'He staid at Paris during the months of January, February, and March, to the thirtieth of this last month, when he followed the Empress to Blois. He insisted that she should remain at Paris, in spite of the entry of the allies, but she dared not. The Emperor, in his instructions, declared traitors all, who should remain at Paris, provided this city should be occupied by the allies, and even any one who should advise the Empress to remain.

'He saw the Emperor a second time the thirtieth of January, on the eve of his departure to the army. The Emperor was decided to make peace after the first victory, but suffered himself to be drawn into a contrary system. That one of his brothers, of whom we speak here, did not cease to press him to sign any peace, he wrote to him almost every day, and among others the 3, 5, and 16 March; in the last of his letters he wrote these remarkable words: "If your majesty does not sign the peace, be convinced your government has not much more than three weeks of existence; it only requires a little coolness and good sense to judge of the state of things at this moment." It was the 16 of March that he wrote these prophetic words, and the 18 of April that the revolution took place. But Fortune is never more deceptive, than when she commences extraordinary prosperity; every thing succeeds to the wishes of her favourites; the sails are swelled, the sea and elements favourable and agreeable to their wish; but let them wait the end of their course, and learn that the evil is in proportion to the good; that time lost by misfortune she makes up, and that every thing is balanced in this world and in the next.'

'* Mon frère, j'ai reçu vos deux lettres, et j'ai appris avec peine que vous soyez arrivé à Paris sans ma permission. Vous n'êtes plus roi de Hollande depuis que vous avez renoncé, et que j'ai réuni ce pays à la France; vous ne devez plus y songer. Le territoire de l'empire est enva-

We should do injustice to the character of the Dutch if we omitted to notice the very lofty and flattering eulogium which is passed upon it in this work, by one who certainly possessed some means of judging it with correctness.

'To consider the humid, uncultivated, and desert aspect of the greatest part of the low, inundated, and as it were artificial soil of a coast, eaten away on the one side by the principal rivers of Europe, which empty themselves over it, and on the other constantly menaced by the tempestuous and violent waves on these shores; to consider the prodigious labour of the Dutch, necessary to preserve their soil above the waters; to consider the continual necessity they are under of the most unrelaxing activity and industry, to procure their subsistence on a barren, expensive, and trembling soil, in an unfavourable climate, one would not think this people could love their country. One would lament their being no more favoured by heaven, and be ready to compare them to a company of exiles, banished from other societies, and forced to live on a thankless and unhealthy soil. But when the manners and character of this people are examined nearer, it is easy to discern their virtues, their candor, their good sense, their attachment to their duty, their patience, their love of labour, their moderation in pleasure, their gratitude and their love towards the Author of every good; when we observe their aptitude for every thing they undertake; the great men they have produced; the perfect state of their agriculture, sciences, commerce, and arts; the high degree of intelligence and civilization they possess, we might compare this people to a *community of philosophers*, disgusted with the reverses, follies, and evils of other men; and who, desirous of living apart, according to their reason and their conscience, look with pity on the pomp, the pleasures, the grandeur, the luxury, the frivolity, and the inhumanity of the world; or rather we might compare them to a chosen people, set apart by heaven as a model for other nations.'

Our readers are perhaps aware that the Netherlands are regarded by some inquirers, principally, we believe, inhabitants of the country, as the original seat of civilization and science, as the primitive root from which proceed the various

hi, et j'ai toute l'Europe armeé contre moi. Voulez-vous venir comme prince français, comme connétable de l'empire, vous ranger auprès du trône? Je vous reçevrai, vous serez mon sujet; en cette qualité, vous y jouirez de mon amitiè, et ferez ce que vous pourrez pour le bien des affaires. Il faut alors que vous ayez pour moi, pour le roi de Rome, pour l'Imperatrice, ce que vous devez avoir [?] Si au contraire, vous persistez dans vos ideés de roi et de Hollandais, éloignez-vous de quarante lieues de Paris. Je ne veux pas de position mixte, de rôle tiers. Si vous accedez, écrivez moi une lettre que je puisse faire imprimer.'

branches of the tree of knowledge which now flourish in the East and in the West. They even consider the geography of these provinces as the ground work of the seducing narratives we read in ancient poets and romances of the Fortunate islands, the Elysian fields, the Sunken land of Atlas and the country of the Hyperboreans, all which places are universally described by the writers in question, as inhabited by an uncommonly virtuous race of men, *gens justissima*—a nation of heroes and sages. The advocates of this theory are accustomed to urge, among other corroborating circumstances, the great conformity between the actual character of the Dutch and the qualities attributed in history to the tribes in question. In fact, if the Dutch are, as they suppose by general acknowledgment, *a community of philosophers*, the theory would certainly be in a high degree probable. Such communities are not of daily occurrence, and with the exception of the United States, we have no people who can put in a very plausible claim to this distinction. The opinion of Louis, which we quoted above, forms, therefore, a singular corroboration of this system, and the more as it appears to have been given without any view to its being used for this purpose. If the attempts which have been made to substantiate the analogy between the arts and languages of the different nations of the world, and those of Holland are equally successful, we may regard the solution of this most interesting problem in the history of man, as near at hand. We have not room, at the close of this long article, to enter upon a full discussion of a new subject of such importance, but must reserve our remarks for a future essay, which we have in preparation, on the local position of the garden of Eden. We may add, however, that the opinion of the late worthy and ingenious Diedrich Knickerbocker, respecting the Dutch character, appears to have been not less elevated than that of Louis Bonaparte.

Art. XIV.—*Anastasius; or Memoirs of a Greek: written at the close of the last century.* New York, reprinted, 2 vols. 12mo. 1820.

There are few things, in which the progress of taste has been greater, than in the department of novel writing. A

sort of literature, unknown in the classical ages of antiquity, and which came up in the Greek and Latin languages, after every thing else had gone down; and which, with various fortunes in the modern languages, had scarce attained a classical elevation in any of them, has, of late years, been cultivated by the first geniuses in most of the countries of modern Europe. It is enough to mention the names of Edgeworth and Walter Scott, in England; of Rousseau and Madame de Staël, in France; of Wieland, Gœthe, and Schiller, in Germany; and of Foscolo in Italy, to show, that scarce a branch of modern literature has more great names to boast of, than that of novel writing. What great and cultivated minds can afford to write, kindred minds need not, of course, be ashamed to read; and that, which was once the solace of boarding-school misses and the traffic of circulating libraries, has grown into a vehicle of history, poetry, ethics, and eloquence, to which none is too grave to resort, and with which none is too refined to be pleased. Instead of an insipid ringing of changes on the ordinary events of fashionable society, a broad caricature painting of the manners of high life, by those who had witnessed them at an humble distance, we have now the most masterly sketches of history, the most discriminating views of national character, the deepest lessons of morals, and the finest bursts of poetry and eloquence, under the name of a romance, a novel, or a tale. Nor has the effect been such as might have been anticipated. This high classical character, which has been given to works of imagination, has not had the effect simply of transferring them from the lower to the higher classes of readers. It has not taken novel reading out of the hands of chambermaids and apprentices, to put it into the hands of philosophers and scholars; but either by the charm inseparable from novel writing, or the peculiar skill with which the works we allude to are written, that are, somewhat as Hooker saith of the law, alike interesting to all, to the least as feeling their charm, and the greatest, as not exempt from their power. Though we shrewdly suspect that there are readers who will skip the essay on the Knights Templars in Ivanhoe, or the antiquarian excursions in Corinne; yet, upon the whole, there are no books more voraciously devoured, even by inveterate novel readers, than the class of novels of which we are speaking. The productions of the Minerva press have been put to rout,

in their own entrenchments, by the very works which have made history dull and poetry tiresome. It is to us, indeed, inconceivable that the trade of job novel writing should not have been wholly broken up, by the splendid productions of the last years; nor do we know how it has been possible, not only for the Thaddeus of Warsaws and the Scottish Chiefs, but even the Trials of the Hearts and the Mysterious Strangers to stand before the Waverleys and the Vivians. But fools rush in where angels fear to tread; and every quarterly list gives the names of novel-writers, who do not fear to to stand up in the presence of that half-anonymous portent, before whom even Miss Edgeworth seems to bow in silence.

The work before us is not the least remarkable of the remarkable novels which have appeared of late years. On its first publication in England, it was announced by an unusual flourish of trumpets in the minor reviews, which was duly echoed in our country. Like every thing else misanthropical and licentious, it was ascribed pretty freely to the great poetical residuary legatee of the spleen of the age; who is accountable for too many authentic libels on his own genius and human nature, to make it kind to ascribe to him any more. It is now in private circles, but we know not how justly, ascribed to an Englishman of fortune, who is said to have composed it from the notes taken on his travels in Turkey, with the aid of the MS. of a Frenchman long resident in the same country. That it is the production of a person or persons who have passed much time in Turkey, with the best means of observation, is apparent on the face of the work. Nor are we acquainted with one among the stately travellers in that much travelled land, from whose formal journals more knowledge of the manners, character, and recent history of the Greeks and Turks can be derived, than is embodied in this work. The style is that of a cultivated writer: very powerful and eloquent at times, though sometimes running into the affected force of the school of Godwin, often intentionally negligent and coarse, and rather constrained throughout. The geographical and national costume is finely kept up. The names are pure modern Greek and Turkish, Arabic and Egyptian. We have detected nothing English or French in the scenery or incidents; and as for terms and titles, even with the aid of the glossary at the end, it requires

little less than one of the author's own drogomans, to get through with them. As to the skill, with which the characters are drawn, we humbly think there is little or none of it. They are all of the diabolical class; or where they are not, the few good people or good actions which are thrown in, appear to have been admitted merely to furnish materials for the infernal passions of the prominent characters to act upon: simplicity to be deceived by their cunning, confidence to be betrayed by their perfidy, love to be ill-requited and deserted, honour to be scorned, innocence to be seduced, and industry and probity to be ruined. When there is no obvious design of this kind, in the introduction of a little virtue into the plot, it is at best admitted only as a foil to the dark prevailing shades, that settle over the main business and characters of the piece. The hero, Anastasius, is at one time a 'Corsair,' and at another a Don Juan. His character appears originally conceived on these models, but it has pleased the author to throw into it so many pick-pocket graces, so much of the old English *prigism*, that we are occasionally bewildered, and think we have gotten back to the worst scenes of Jonathan Wild or Gil Blas. All this did not necessarily involve any thing, which was *scandalous*, in the stricter sense of the word; and to make his book a bolder defiance of public decency, the author has occasionally indulged in a licentiousness equally immoral and disgusting. 'Some apology,' says he in the preface, 'may seem required for the publication of these memoirs. The editor, indeed, trusts that no one will suspect him of proposing the hero as a model, his actions as examples, or his principles as praiseworthy; but he would not even willingly be supposed to present scenes too frequently of vice, merely for the sake of affording and idle and unprofitable pastime. His aim is not wholly frivolous.' He does not, however, inform us of any good object, which he proposed to himself in the exceptionable features of the work; but only adds, in the sequel of his preface, speaking in the character of editor of a work which had fallen into his hands, that 'unfortunately the weeds in his work are so closely interwoven with the flowers, that only some of the rankest among the former could be plucked out without detriment to the latter.' Now to be guilty of the simplicity of parleying with a man of straw—with the author of this English novel in the disguise of the editor of a Greek

manuscript, what apology does all this afford for the introduction of scenes and the description of events, shocking to delicacy, nay to decency? We freely acquit the editor of a design of holding up his hero as a model, his actions as examples, or his principles as praiseworthy: but we severely condemn him for attempting to poison the imagination with the description of profligate actions, and the delineation of scandalous scenes; and for being willing to purchase a momentary interest for his work with the least respectable part of his readers, by availing himself, we will not say of the most corrupt, but of the most contemptible sources of interest. The amount of geographical and historical information, the strength and fidelity of the description of natural scenery, the dramatic incident, and the strong writing which this book contains, might, under the direction of a purer taste, have made a work of which the age would have been proud. Could the materials, here wrought up into this offensive tissue, have been placed at the disposal of the author of Waverley, who, like all the sons of light, has a moral sensibility as keen and delicate as his intellectual, what an admirable production would he not have given us. Instead of this, Anastasius, with incident enough for sixteen fashionable novels, with as much information with regard to the Greeks, the Turks, and the Arabs, as can be drawn out of many a ponderous tome of history and travel, and better written than many better books, will, or at least ought to have, a limited circulation, and a transient existence; and be set down among the productions of the day, as a work which the angel of literature, if any such spirit there be, will

Blush to record, and weep to give it in.

Lest, however, our readers be tempted to think from the nature of the exceptions we take to it, as well as from the tenor of our introductory remarks, that it is a work in every other respect of the highest class, and worthy to be named with the Waverleys and the Antiquaries, we think proper to add, that its literary execution and its conception as a work of taste are not of the highest order. The story is overlaid and crushed, by the quantity of history introduced. There are few readers, that will not nod over much of the Egyptian campaign, and who would not gladly have exchanged some chapters at Cairo, and the falls of the Nile, for a glimpse at the

parts of Greece which are left untouched; a visit, if no more, to Sparta, to Delphi, to Thermopylæ or to Athens. There is, perhaps, also too resolute an introduction of oriental costume and character. The Turks are too Turkish, the Greeks too Greek. Men do not cease to be men, because they wear turbans. The great lines of humanity, in all countries, are the same; and it is the error of an inexperienced or a timid writer to think it necessary to crush all the traits of the common human nature and human manners, by anxiously keeping up peculiarities which do not often occur, nor in every man. It is like Modern Latin, so exquisitely ancient, so thickly peppered with ἅπαξ λεγόμενα, that an old Roman would be at his wits' end to understand it. Had our author recollected the humorous complaints of the Citizen of the World, who had no chance at a comfortable meal in London, from being constantly teazed to eat with chop sticks, he would have spared us some of the oriental scenery, which now figures in his volume.

The objects of reviewing are various; we mean the secondary objects; the primary object, by common law of reviewers, being 'the cutting up' of any person detected in writing a book. That this is the primary object of reviewing is now well understood. It has been very judiciously laid down, in a decision of our illustrious brethren at Edinburgh, that an author as such is the property, the possession, the slave, the mancipium of the reviewer. The very terms of the language imply it,—'*Our* author.' No form of language can express more absolutely the *diminutio capitis maxima*, a right more full and unconditioned. No rank, no wealth, no power, no time, no place can take the *author* out of this unqualified servitude. The oldest adepts in the art, the gravest teachers of wisdom, the canonized sages of antiquity, the bearded masters of the East; all that time has spared or learning uncovered from its ashes; every sacred name of pundit and munshi, of magus, sophist and doctor, scavant and scholar, their moallakats and their anthologies, their poetry and their prose, every thing that, by however remote an association, falls within the category of author or book, falls at the same time, and *ipso facto*, beneath the dominion of the reviewer. He holds this literary dominion, as the political lords of society hold theirs; by an arbitrary, unconferred right, far above your *jus divinum*, or your peo-

ple's choice, by his own free will and assumption. He is bound also to execute this charge, as the rulers of the earth execute their charge, as seemeth him good. He has the same right to sacrifice book, section and chapter, that they have to sacrifice division, battalion and company. He is no more bound to ask an author if he shall abuse his treatise, than they have to ask the subject if they shall empty his pockets. He is to execute the high trust, which, from a disinterested love of letters and hatred of authors he voluntarily assumes, with a high hand and steady nerves. The remonstrances of authors, who had rather be puffed than ridiculed, the squibs of newspapers, and the denunciations of *Coteries* must be to him, what the petitions of loyal subjects, the memorials of suffering merchants, the addresses of aggrieved corporations, are to legitimate sovereigns; nor is there a single principle of truth and justice, at all more binding on the reviewer than on the ruler, the minister, and the prince.

But though such be the tenure of his dignity, of the duties and privileges connected with it, and the primary objects which he has in view, the good natured reviewer, as objects wholly subordinate and secondary, aims to spread the reputation of good books; commonly taking care to wait a prudent time, for the public taste to pronounce them good; and to check the circulation of bad books, after they have been scouted out of all well educated company, and thrown under every decent table. He does not disdain to exercise a laudable diligence, in commending acknowledged merit, detecting exploded error, and above all, which is upon the whole a great secret, filling up his pages with extracts from popular books, for which his readers have already paid in another form. This last is no small mystery; for with good management, the simple public, which is at the mercy of authors in much the same way that they are of reviewers, the good natured public may be made to pay three times for the same article; first in the original publication of the author; second in the review with extracts or rather the extracts with a review of the critic; and third in the notice of the review, by the newspapers of the day.

It does indeed happen, in a few rare instances, that a reviewer is quixotic enough to attempt something more; to labour on the refutation of an author's errors, or a confirmation of his reasonings, or a pursuit of his inquiries, or an analy-

sis of his chapters, by which the busy reader may be aided in forming his judgment of their contents and availing himself of what information they contain. Sometimes, too, we take compassion on the purses of the public, and try to make our review serve as a substitute for the work itself: and very highly to the satisfaction of the author, and still more of his bookseller, furnish our readers with a sketch and extracts, that will enable them to dispense with the necessity of buying the book. Our present design, in the case of Anastasius, is a little different still. We wish to furnish those of our readers who are deterred by the moral character of the work, with an opportunity of deriving some gratification from its contents. We wish to pluck up a few more of the weeds, hoping that the flowers will gain instead of suffering detriment, by the process; and inasmuch as self interest creeps into and corrupts every thing, we are anxious to signalize our own sagacity, in commenting on a few of the statements. Having thus at the beginning fairly told the reader what we mean to do, a piece of candor so rare with writers, whether critics or authors, that the reader is often at loss at the end to know what their object has been; we shall allow him to make the best of our information, by turning at once to the next article, without stipulating, however, that it shall be half as edifying as we should be glad to make this.

This work is called the Memoirs of a Modern Greek, and bespeaks our interest in its title. It is scarce a century and a half, since so little was known or cared for Greece, in the rest of modern Europe, that some of the travellers, we believe, speak of Athens as being lost. This is correctly enough said, if intended to convey an idea of the ignorance of Greece which prevailed in the rest of Europe. But when, with several late writers, we go on to say that even the name of Athens had disappeared, under the barbarous appellation of *Settines*, given to the city of Minerva by the fishermen on the coasts, we exaggerate the degeneracy of the Greeks. If for Settines you read *Sethines*, and so in fact it stands on the old maps, you have the name very nearly, no doubt, as it may have been pronounced in the days of Pericles. If, instead of bringing this word into two syllables, with the accent on the first, you pronounce it in three syllables with the accent on the second, and with the continental sound of the vowels, you have 'S-ethínes or 'ς ἀθήνας, the classical name of Athens,

with the adjection of the preposition that prevails in so many of the modern Greek names of places.*

There is, however, nothing about Athens in Anastasius, and we should owe an apology to our readers for wandering so soon from the point, if a reviewer were not luckily under no sort of obligation to confine himself to what his author has said. But though in Anastasius there is nothing about Athens, there is much of the modern Greeks. The author has infused into the character of his hero some noble qualities, and still more into that of his friend Spiridion. But notwithstanding this, the modern Greek character is painted on the whole in dark and contemptible colours. We ascribe something of this to that delicate feeling of national courtesy, which leads the travellers and the writers of the present day to abuse and vilify every country but their own. It does not, in the case of Anastasius, appear to be done with the design which some of the travellers, both noble and gentle, have had in similar unfavourable representations of the Greeks, viz. to set off, in a more advantageous light, the romantic and fictitious virtues, which they ascribe to the Turks. Anastasius is more honest. Turk and Greek fare alike in his hand; *Tros Rutulusve.* The only difference is that which grows out of their difference of political condition. It is only a choice between servile and tyrannical meanness, treachery, and corruption; between the vices of masters and the vices of slaves. Whatever may be said of the spirit which dictates this unsparing sentence of condemnation, we are sure that the part of it least open to objection is that, which concerns the Turks; a nation which has lost the virtues of barbarism, without acquiring those of civilization; and seems in its position between cultivated Europe and the savage North and East, to unite all that is corrupt in both regions; the cruelty and ferocity of the one with the sensuality and luxury of the other, without the redemption of Scythian manliness, or the courtesy of civilized life. That the command of the lives and fortunes of others, and the habit of giving arbitrary law to towns, districts, and empires, should never produce a princely generosity of character among individual Turks, is not to be supposed. It is very natural that a traveller

* This remark ought the less to have been overlooked, as it is as old as Meursius, who, in making it, does not seem to be aware that he contradicts himself: (de Fortuna Attic. in fin.)

through their pachalics, with firmans from their sultan, backed by the passports of imperial and royal ambassadors; with his purse full of ducats, and his trunks of telescopes, gold watches, and elegant cutlery to be laid at their highnesses' feet, should be kindly received and faithfully protected. But it needs no observation or testimony of travellers, to teach us that a nation originally of barbarous warriors, still retaining military possession of a conquered country, but so degenerate, as to be supported therein by the conflicts of European politics and not by their own strength, and therefore characterized by all the vices of military government, without the virtues incident to severe discipline; a nation which makes it a matter at once of political and religious conscience to crush every germ of useful learning and the refined arts, and which tolerates not the art of printing; a nation subjected itself to a despotism as absolute as the military servitude in which it holds the original inhabitants of the countries where it is encamped, a despotism destroying all orders in society, by making all equally worthless in the sovereign eye, and annihilating, by a total insecurity of property, the great motive to public and private effort, and the great bond of social union; a nation, finally, in which polygamy exists, and that great element of happiness and virtue, the equality of the sexes, is unknown;—it needs no observation or testimony to teach us that such a nation must in every sense and form be in the last stages of corruption. And to talk of the honour, the virtue, the magnanimity of the Turks, on the score of the personal kindness and protection which a traveller may experience, is to trifle with moral distinctions, and to utter a libel on civilized society. We mean not, in giving this character of the Turks, to insinuate a panegyric of the modern Greeks, who have all the civil and national vices to be expected from their situation and fortunes. All enthusiasm is honest, and we feel no disposition to censure that which is felt for whatever bears the name of Greek or Greece. But if knowledge, art, refinement, and glory are ever to revisit the world, in their ancient athenian splendor, there are not many regions of the earth, which we should not sooner point out for the manifestation of this *avatar*, than the spot of its former appearance. Greece is ignorant, poor, enslaved, and abject; and there are regions of the earth, which are enlightened, prosperous, and free; and it seems

more in the order of Providence, that these last should be made the theatre of the glorious efforts of humanity, than those, which have had their day of visitation, and are no more. The consequence of driving the Turks from Greece, the first step which presents itself toward Grecian restoration, would be the subjecting of the country, which they now oppress, to one or all the powers, whose present mutual jealousies maintain the Porte, and we are not quite sure if any thing, beyond the vexatious and barbarous parts of the Turkish government, would disappear, under the administration of a Russian, an Austrian, or an English governor. The substantial disabilities of the subject would, we apprehend, remain undiminished.

But to return from the country to the person of our hero, Anastasius is the son of a Sciote, whose ancestors had emigrated from Epirus to the isle of Scio. His father was drogoman to the French Consul at Scio, an office far more important in the East, than is indicated by the word *interpreter*, by which that of drogoman is usually rendered. The ignorance of their respective languages, which prevails between Franks and Orientals, putting it out of the power of the principals to detect the infidelity of their interpreters, these latter, instead of being mere linguists, are agents of the most confidential character. The chief drogoman of the Porte is always of one of the first princely houses of the Fanal, and so important is it found by the christian potentates, to attach an able drogoman to their legations at Constantinople, that a douceur of 50,000 dollars is said to have been given by Count Strogonoff, the present Russian minister there, to bribe over his drogoman from the service of one of the other powers, we believe the French.

Son of the drogoman of the French Consul at Scio, and of the daughter of the Greek primate of Naxos, Anastasius was the youngest of seven children, whom he describes, with laudable candor, as a generation of vipers. The family estate having been exhausted in the portions of the daughters, and establishments of the sons, Anastasius is destined by his parents, as a last resource, to the church, against his own inclination for the sea. He however soon throws off the restraints imposed upon him, and in capacity of captain of a youthful gang employs himself in pillaging the neighbouring peasantry. To this succeeds the seduction of a young and lovely girl, the

daughter of the French Consul; and to escape the necessity of a marriage with her, Anastasius flies from home, and takes passage as a cabin boy in a Venetian brig, just sailing. In the course of their passage, they are captured, off Antiparos, by a boatful of Maynote pirates, between whom and the captain of the Venetian a collusion existed. This was in 1779, after the period of the Russian war in the Morea. The Maynotes and their prize, the Venetian, are observed by the Turkish fleet off Nauplia, and both captured by a caravel despatched for that purpose; and thus, says Anastasius, 'was I, hapless Greek, compelled in the space of four days to bear the yoke of four different nations, French, Venetians, Maynotes, and Turks.'

From Nauplia, with the rest of the prisoners, Anastasius is marched up, through the plain of Argos, to the memorable city of that name, where the Turkish army was encamped. Considering the profusion with which we are treated in subsequent parts of the work, with the localities of Constantinople and Cairo, we may regret that the ingenious author did not dwell a moment on his way to Argos, upon the wonders of its plain, upon the Cyclopian walls of Tiryns, the oldest in Europe, and scarcely less entire than when Homer sang of those

Οἱ δ' Ἄργος τ' εἶχον, Τίρυνθά τε τειχιόεσσαν,

and upon the citadel of Mycene, and the treasury of Atreus; objects, which, in the connexion of classical antiquities, give an interest to the plain of Argos, beyond almost every spot in Greece.

On our own arrival at Argos, on account of the plague prevailing there and in the vicinity, we were kindly refused admittance into a private dwelling, and forced to accept of lodgings in a forlorn and ruinous khan. On account of the unexampled swarms of fleas which there prevailed in its wretched chambers, we soon retreated from them to the galleries, to sleep in the open air; a lot hardly compensated by a long Greek inscription, unnoticed, that we know, by former travellers, which we discovered built into the face of a fountain in the court-yard. Anastasius, in his visit to Argos, was more fortunate than ourselves, for he attracted the notice of Mavroyeni, the drogoman of the Capudan Pasha, or Turkish high admiral, before whom, in capacity of prisoner, he was brought with his comrades. Mavroyeni was pleased

with the appearance of Anastasius, and received him into his service, as a confidential cup-bearer and attendant. After some time spent at Argos, in this situation, our hero follows, in the train of his master, on an expedition undertaken by the Capudan Pasha, against the rebellious Albanians, who had entrenched themselves at Tripolizza, the capital of the Morea, and there bade defiance to the Turkish power. In an engagement, which took place between the Turks and the Albanians, Anastasius, who had not been able to conceal the mortification which he suffered at being obliged to submit to menial offices in the service of Mavroyeni, obtained, through the intercession of the latter, the Pasha's permission to shoulder a musket, and join the fight, like an Osmanlee. On this occasion he distinguishes himself by his rash and thoughtless courage, and had the good fortune to receive the applause of his master and the Pasha, in whose suite, at the close of the campaign, he sails from Nauplia to Constantinople. The reader is thus introduced to the far-famed capital of the East.

'A most favourable wind continued to swell our sails. Our mighty keel shot rapidly through the waves of the Propontis, foaming before our prow. Every instant the vessel seemed to advance with accelerated speed; as if—become animated—it felt the near approach to its place of rest; and at last Constantinople rose, in all its grandeur, before us.

With eyes rivetted on the opening splendors, I watched, as they rose out of the bosom of the surrounding waters, the pointed minarets, the swelling cupolas, and the innumerable habitations, which, either stretching away along the winding shore, reflected their image in the wave, or creeping up the steep sides of the mountain, traced their outline on the sky. At first agglomerated in a single confused mass, the lesser parts of this immense whole seemed, as we advanced, by degrees to unfold, to disengage themselves from each other, and to grow into various groups, divided by wide chasms and deep indentures—until at last the clusters, thus far distantly connected, became transformed as if by magic into three entirely different cities, each individually of prodigious extent, and each separated from the others by a wide arm of that sea, whose silver tide encompassed their stupendous base, and made it rest half on Europe and half on Asia. Entranced by the magnificent spectacle, I felt as if all the faculties of my soul were insufficient fully to embrace its glories: I hardly retained power to breathe and almost apprehended that in doing so, I might

dispel the gorgeous vision, and find its whole vast fabric only a delusive dream!' vol. i. p. 40.

The following picture, the first presented us on the arrival of Anastasius at Constantinople, faithfully illustrates the wretched tenure, by which the Grecian nobility holds its dignity and importance under the Turks.

'It was with difficulty I could collect my scattered senses, when the time came to step down into the nut-shell, all azure and gold, which waited to convey the drogueman's suite to the Fanar, where, with the other principal Greeks, Mavroyeni had his residence. Each stroke of the oar, after we had pushed off from the ship, made our light caïck glide by some new palace, more splendid than those which preceded it; and every fresh edifice I beheld, grander in its appearance than the former, was immediately set down in my mind as my master's habitation. I began to feel uneasy when I perceived that we had passed the handsomest district, and were advancing toward a less showy quarter; I suffered increasing pangs as we were made to step ashore on a mean looking quay, and to turn into a narrow dirty lane; and I attained the acme of my dismay, when, arrived opposite a house of a dark and dingy hue, apparently crumbling to pieces with age and neglect, I was told that there lived the Lord Mavroyeni. At first I tried to persuade myself that my companions were joking; but, too soon assured they only spoke the truth, I entered with a fainting heart. A new surprize awaited me within. That despised fir-wood case of dusky brown, the regular uniform of all the Fanariote palaces, and which seemed so much out of repair, that the very blinds were dropping off their hinges, contained rooms furnished in all the splendor of Eastern magnificence. Persian carpets covered the floors, Genoa velvets clothed the walls, and gilt trellice work overcast the lofty ceilings. Clouds of rich perfumes rose on all sides from silver censers. And soon I found that this dismal exterior was a homage paid by the cunning of the Greek gentry, to the fanaticism of the Turkish mob, impatient of whatever may, in Christians, savour of ostentation or parade. The persons of the Fanariote grandees were of a piece with their habitations. Within doors sinking under the weight of rich furs, costly shawls, jewels, and trinkets, they went out into the streets wrapped in coarse and dingy, and often thread-bare clothing.' vol. i p. 41.

At this stage of the work, it assumes very much the character of Gil Blas. It is the worthy son of Nunez, not at Toledo

or Madrid, but at Constantinople; and without being at great pains to preserve the unity of the character of the hero, the author makes him the thread, on which is strung more exact and curious information of the private life in the better orders of society among the Greeks of Constantinople, than can easily be found elsewhere.

Anastasius is dismissed the service of Mavroyeni, and enters that of a Jewish physician. In chapter vi. is given a dismal description of the Turkish prison, into which he is thrown with his master for the temerity of their unlicensed practice. The description of the ravages of the plague among the miserable victims there confined, and chained in pairs, is truly terrific; and one recoils at the frightful image of this awful judgment raging in the dungeons of a Turkish gaol. The following picture is traced with a strong hand.

'Nothing but the visitation of this destructive monster seemed wanting to complete the horrors which surrounded me: for if even, when only stalking forth among men free to fly from its approach, and to shrink from its contact, the gaunt spectre mows down whole nations like the ripe corn in the field, it may be imagined what havoc ensues when it is permitted to burst forth from the inmost bowels of hell, in the midst of wretches, close-wedged in their dungeons, or linked together at their tasks, whom it must trample down to the last, ere it can find a vent in space. It is there that—with a focus of infection ready formed, a train of miasma ready laid on every side—though this prime minister of death strike at random, it never misses its aim, and its progress outstrips the quickness of lightning or of thought. It is there that even those who thus far retain full possession of health, already calculate the hours they still may live; that those who to-day drag to their last abode their lifeless companions, to-morrow are laid beside them: and that those who are dying, make themselves pillows of the bodies not yet cold of those already dead. It is there that finally we may behold the grim destroyer, in one place awaited in gloomy silence, in another encountered with fell imprecations, here implored with anxious cries, there welcomed with eager thanks, and now perhaps received with convulsive laughter and mockery, by such as, trying to drink away its terrors, totter on the brink of the grave, from drunkenness as well as from disease.

'The before busy bee-hive of the Bagnio, therefore, soon became a dreadful solitude. Its spacious inclosures, so lately teeming with tenants of every description, now began to present a void

still more frightful than its former fulness. Universal silence pervaded those endless galleries, but a few days before re-echoing with the confused din of thousands of prisoners, fighting for an inch of ground on which to lay their aching heads; and nothing any longer appeared that wore a human shape, except here and there some livid skeleton, which, as if again cast up by the grave, slowly crept along the clammy walls. When, however, the dire disease had devoured all that could offer food to its voracity, it gradually fell like the flame which has consumed its fuel; and at last became extinct. What few miserable remains of the former population of the Bagnio had escaped its fury were again restored to the regular sufferings of the place, suspended during the utmost height of the desolation.' vol. i. pp. 68, 69.

But the panic excited in our healthy towns by the unusual appearance of an infectious disease, would lead us to form, perhaps, an exaggerated idea of the anxiety which must prevail in so crowded and ill-governed a city as Constantinople at the appearance of the plague. It appears to be true that the Turks really act upon the principle of predestination ascribed to them, but which one finds it difficult to credit. It is most confidently asserted that no one recoils from a brother Moslem, who enters a coffee-house and takes his seat on the divan, with plague spots on his cheeks; that no Turk avoids such an one on the highway, or, if in want of clothing, forbears to put on his clothes when he is dead. Neither does the dismay of the Greeks and Franks equal what we should expect. There is more inconvenience than fright. Life is turned into a quarantine and every dwelling-house into a blockaded fortress. The prudent inmate, if he leave his abode, will not do it on an empty stomach, often not without a pipe in his mouth. He hurries anxiously through the street, touching no man's robe as he passes, and studiously avoiding a contact with the troops of hungry mangy dogs in the streets. He sits on nothing hairy or woollen, takes neither paper or coin into his hand till it has been steeped and fumigated, and when he goes home receives the provisions for his table from without on forks, by which they are plunged into water, and with all this slavery feels hardly secure. The plague, called by the Greeks τὸ θανατικὸν, is scarcely ever absent from Constantinople. In the year 1812, it is reputed to have swept away 200,000 souls, and it has lurked in the crowded and unhealthy portions of the city ever since. The superstition on the

part of the Turks which leads them to think that any attempt to escape the plague is not only idle but impious, is relaxing in those portions of Turkey where the Greeks enjoy any considerable influence. At Patras, at Tripolizza, and at Athens the Greeks have succeeded in establishing something like a quarantine; though commonly operating in the case of Greeks and Franks alone: for notwithstanding the permission they may obtain from a Waywode or a Pasha to shut their gates on the traveller, the first Tartar bound on an errand through the city, will deride the quarantine, and perhaps scatter the pestilence from the housings of his saddle. No where has the Turkish policy been more enlightened in this respect than in the Morea; and the houses in which the plague discovered itself, in the plains of Argos and Tripolizza, in the spring and summer of the last year, were regularly burned by order of the Pasha.

To return to our hero and his adventures; he engages, on his delivery from prison, in the business of interpreter and *cicerone* to travelling Franks; and a ludicrous picture, true to the life, is given of the entrance of a party of them into Constantinople. To protect himself from the consequences of an imprudent intrigue, he renounces his religion, and turns Turk, and goes back to Scio, the land of his birth, with the turban on his head. The unfortunate Helena, the daughter of the Consul, was with their infant dead, and the father of Anastasius, instigated by the elder sons, receives him with an unkindness which blasts his purposes of reformation. Leaving his native Scio in disgust, he wanders about the islands on board a vessel of the government, despatched for the collection of the yearly tribute; descends on this errand to Rhodes, where the meditations of the author are in a solemn, high wrought strain; and finally, on the recommendation of a Turkish officer, whose acquaintance he had formed on board the vessel, determines to sail for Egypt, and push his fortune in the military career, in that great metropolis of adventurers. He arrives at Alexandria, and ascends the Nile to Cairo; and the following broad sketching is intended as a portrait of the native of the land of Egypt.

'Among the strange animals which our barge conveyed across this vast watery waste, shone conspicuous from the bright yellow of his glossy skin, a short bloated biped, who, on a head scarce

peeping above his shoulders, wore, perfectly poised, a huge flat turban, which gave the *tout-ensemble* the complete proportions of a toadstool; and truly, in the eyes of the other natives, this natural production seemed very much held in similar estimation with a fungus. An Osmanlee of Cairo—a man of unusual information for his country, and of open pleasant manners—seeing the wonder with which I contemplated this figure, whispered me: "Coobd is the name these people give themselves, and they trace their descent from the ancient Egyptians; but they have changed the object of their worship from cats and onions to gold; and the only hieroglyphics they preserve are those which secure to them the exclusive knowledge of the size, produce, and boundaries of all the cultivable tracts of the country. Nor is this, in their hands, a mere speculative and barren science. It secures them the stewardship of all the property of their Mahommedan masters. More conversant in arms than in arithmetic, we cannot dispense with this vermin, though it lives upon our best substance; and every Mussulman, of any rank or wealth, from the Schaich-el-belled who farms the whole territorial contributions of Egypt, to the smallest Aga of a village, or subtenant of the Schaich-el-belled, has his Coobtic steward or writer, whose accounts he understands just as much as the Coobd understands the language of his own prayers. He only knows that he is cheated, and has no way to help himself."' vol. i. pp. 163, 164.

It is in the Egyptian chapters of Anastasius, that even the hardened lover of romances will begin to flag, and think he has mistaken his book. Notwithstanding this, we scarce know where more secret history of the convulsions of that country for the twenty years preceding the French invasion can be found. But our limits oblige us to pass over it, as hastily as the most resolute novel reader, that ever hunted a preposterous plot, through four volumes of wire-drawn sentiment. Anastasius is successful in his military career, rises from one political post to another, marries a wife of rank and fortune who soon dies, and finally escapes from Egypt, as the jealousies and intrigues excited by his prosperity begin to thicken about him.

He is now driven by his uneasy spirit of adventure into Arabia, and here too the narrative scatters its profusion of minute local knowledge on the route of the hero. He lands at Djedda, and there becomes acquainted with an astrologer, an occasion which the author seizes to make his readers acquainted with the mode, in which that valuable art is still

practised in the East. From Djedda he goes to Mecca on a pilgrimage to the holy city of the Osmanlees, and the following is a comparison of the appearance of the pilgrims on their departure for Mecca and on their arrival there.

'At Cairo I had viewed the departure of the caravan from the Birket-el hadj, as a species of public rejoicing. The whole of the night which preceded the raising of the tents, the camp, resplendent with the light of millions of lamps, and re-echoing with the sound of thousands of musical instruments, seemed the special abode of mirth and pleasure ; and the ensuing morning the pilgrims, fresh, gay, full of ardour, and prancing along the road, looked like a procession of the elect, going to take possession of Paradise.

'Alas ! how different was the appearance of this same caravan, after a long and fatiguing march across the desert, on its arrival at Mekka ! Wan, pale, worn out with fatigue and thirst, incrusted with a thick coat of dust and perspiration, they who composed it seemed scarce able to crawl to the place of their destination. The end of their journey looked like that of their earthly existence ; or rather, one might have fancied their bodies already smitten by the spirit of the desert, and their ghosts come disembodied to accomplish their vow.

'Among the arrivals were some of my Egyptian friends ; but their sufferings had so altered them, that they were obliged to syllable their names, ere I could bring their persons to my recollection. One had almost lost his eyesight, another scarce preserved a remnant of his before slender intellect, and a third was, in consequence of constant alarms, become subject to such spasmodic movements, that he believed himself obliged to hold his head fast by the ears, lest it should turn round like a top on his body !' vol. i. p. 237.

The obligation of pilgrimage to Mecca was perhaps imitated, by the Mahometans, from the Christians. In modern days, the Greeks have fashioned their pilgrimage on the Turkish, and the name Hadjee, or as it is written in Romaic χατζῆς, is arrogated with as much earnestness by the Greek, who has been to Jerusalem, as by the Mahometan who has been to Mecca. It is used by all, who have a right to it, as a title of familiar address, and it is usual to find it on the superscription of letters written to persons, who have made the pilgrimage. From Mecca Anastasius passes to Medina, and thence to Damascus, at that time the residence of Djezzar, or the

butcher, the well known pasha of Acre. After a short abode in the metropolis of Syria, he descends to the coast and embarks again for Constantinople.

On his return to the capital of the East our hero finds his old patron Mavroyeni advanced from the subordinate post of drogoman of the Capudan Pasha to the highest dignity to which a Greek subject can attain, that of Ospodar of Wallachia or Blackbey,* as it is called by the Turks and Greeks. Without troubling our readers with the stores of erudition, which may be found on the topic of Ospodars and Blackbeys in Engel's German history of Moldavia and Wallachia, we shall merely observe that these two *transistrian* provinces of the empire have, from the earliest conquest by the Turks, been governed, in a different manner from the rest of the provinces subject to the Porte. The population being exclusively christian, and not having been like the other European provinces checquered by the establishment of Turks in their bosom, it was found more convenient to farm these provinces to their native princes, from the body of the Boyars, (the indigenous Moldavian and Wallachian grandees) and afterwards to a member of one of the rich Greek families at Constantinople, than to send down a Turkish pasha. It was in the year 1716, that the first Greek hospodar was sent down from Constantinople, by the Porte, to the exclusion of the native princes. The demands of the Turkish government, in regard to these appointments, have been usually of the most summary kind; a gratification to the treasury and all the subordinate agents connected with the transaction, in the first instance; continual extorted presents from the poor hospodar during the administration; and in the majority of instances decapitation and confiscation to conclude it. It is easy to anticipate the effect on the unhappy provinces of a government so constituted. No portions of Greece suffer so much, under the oppression of the Turkish government, no, not the poor Albanian shepherd beneath the extortions of the hardhearted Ali, as these two christian provinces under their christian hospodars. The period of their administration, as regularly constituted a period of seven years, is to make up to them the debts they have incurred in superseding their rivals, in buying their nominations, gratifying

* Wallachia is called βλαχία by the Greeks; and *bey* or *beg* is the Turkish for Lord or Prince.

the insatiable avarice of their tyrannical employers, and in laying up a fortune for their families. With a few splendid exceptions, the memory of the hospodars is odious in Moldavia and Wallachia; and the usual pretence of the Porte for their final destruction, is the murmurs of the wretched provinces; who have never read Esop's fable of the flies. The hospodarship of Moldavia and Wallachia with the post of drogoman to the Porte, and the patriarchate of Constantinople form the four great objects of ambition, to the families of the Greek princes; and the Fanal is constantly seething with intrigues to obtain them. By an ordinance of the Porte, issued three or four years ago, four families were designated, to which the succession to these dignities was henceforth to be confined; an ordinance which, we presume, resolves itself into a stroke of Turkish policy, to make these offices twice an object of purchase; in the first instance to become one of the four families, and then to attain the post, in the individual case. The adventures of Karadja, the late hospodar of Wallachia, who, with a fortune of 60,000,000 florins, fled two years ago from the bow-string, and took refuge in Geneva, and was at the last accounts at Pisa, are somewhat romantic, but it is those of Anastasius, which we are now bound to relate.

On his return to Constantinople, he renews his intimacy with a Greek to whom he had been formerly attached, named Spiridion; the singular name which the Greek church has fabricated out of *spiritus*, and which designates the famous saint, whose body is still venerated at Corfu. Spiridion undertook, by his gentleness, good sense, and forbearance, acting under the impulse of a strong enthusiastic attachment, to produce a reformation in the life and manners of Anastasius, and bring him back to the bosom of the church. Several interesting chapters are devoted to the description of these efforts, and of course of their ill success. Anastasius is forced to fly once more from the capital, to escape the pursuit to which he was exposed, for killing a Turk that had insulted Spiridion; and the zeal of the latter rekindled by gratitude prompts him to follow the desperate Anastasius, and make another effort for his salvation. Carried down the straights by the current, they soon reach the Archipelago; and our hero, having heard at Mitylene of the death of his father, determines to visit Scio, and reclaim his share of the inheri-

tance. The prejudice existing against him among his former fellow citizens, as a profligate and a renegade, is changed into admiration of his generosity, in the division of the paternal estate; and Spiridion, who had begun to fear the consequence of the conflict with his avaricious and unprincipled brothers, rejoiced in the success of his counsels, when he beheld the magnanimity with which Anastasius treated them. But this treacherous calm is soon disturbed by a scene, to which an abstract would do but poor justice.

'Since my sojourn at Chio, I had resumed my old travelling custom of carrying my pistols duly loaded in my belt. Many in Turkey always wear them thus when out of the capital. As they now impeded my breathing, I took them out, and laid them on the sofa. Scarce was I disencumbered of my weapons, when my knees began to tremble; a dark curtain seemed to drop over my eyes, and I fell senseless on the couch.

'I continued some time bereft of all perception. On its return I found myself stretched out at full length where I had fallen, with all the accompaniments of one duly convicted of a decided and lasting illness. A regular physician of the place was feeling my pulse, and going to pronounce on my case; and as my first return to my senses was marked by a fierce struggle with my Esculapius, I was at once judged to be in a violent delirium, and in imminent danger. Sentence was pronounced accordingly, and every internal medicine, and every external application prescribed, which could torture the human body and stomach. All the bystanders conceived me in the agonies of death, and civilly expressed their regret, at the short stay I made among them.

'To myself these politenesses seemed premature. The sudden transitions from heat to cold, the suppressed perspiration, the fatigue of body and the anxiety of mind during the journey, were quite sufficient, in my own opinion, to bring on a strong paroxysm of fever, without death being the necessary consequence. I however deemed it expedient to assent to all the doctor said, in order that he might say no more. It afforded Spiridion an excuse for turning out the company, and procuring me a little quiet. He alone stayed to nurse me.

'"What a pity," muttered I to myself, when I thought no one heard me, "that that last dose of the English powders of mine should have been wasted in Egypt on that traitor my father-in-law." Spiridion lost not a syllable of the soliloquy. "There are foreign vessels in the harbour," he cried. "Possibly they may have some;" and he immediately ran out to inquire.

'Meanwhile my brothers had received from the departed visiters the agreeable intelligence of my being at the last gasp. They hastened up to me, eager with curiosity and hope; and finding my door ajar and unguarded, slipped in with the least possible noise. I however had discerned their steps on the stairs, and immediately—before they entered the room—assumed the appearance of one in the act of resigning his last breath. Constantine was the first to approach. On tip toe he came to my bed side in order to ascertain whether his joy was well founded, ere he gave it full scope. With that laudable view he examined me most minutely from head to foot, raised and let fall my arms and legs, moved his hand before my eyes, put his ear to my mouth, first addressed me in a low whisper then audibly, then shouting with all his might, as if he suspected I might be playing him a trick.

'Most manfully did I stand the whole ordeal. Nothing could make me wince or move a muscle; and my affectionate brother at last acquired the grateful conviction, that if not quite dead yet, I had at least already lost all perception, and could not fail soon to depart for ever. He no longer delayed conveying the agreeable intelligence to the discreet Eustathius, who, the hindmost on all other occasions, on this also had not ventured beyond the door, and there stood, in breathless expectation, waiting the result of the scrutiny; and perhaps also watching the condition of the outposts.

'"Stathi," said Constantine, with a sort of subdued exultation, "there is some warmth still about him—but depend upon it he cannot last!"

'"Ah!" exclaimed the wary Stathi, shaking his head, "worse than he, I fear, have recovered!" and he fetched a deep sigh at the thought!

'"True," answered Constantine; "and as we are alone, and have every presumption in our favour, why not make sure work, and crush the snake at once!" And so saying, he laid his hands on my throat, and attempted to strangle me.

'This was doing things in a grand style! Not stopping at half measures. I conceived for my brother a veneration, unfelt before, almost thought it a pity to interrupt him in his spirited proceeding, and would have let the farce go on, could I, at its conclusion, have revived at my own pleasure. *That* not being the case, I was reluctantly forced to notice the intended favour, and weak as I felt, to defend myself as well as I could, against my two stout assailants; for Stathi too now advanced to lend a hand; and it was evident that having once begun, they would not, if they any way could help it, leave their work unfinished.

'My fire arms lay concealed, but within reach. With one hand I seized Constantine's wrist, and with the other a pistol: "Ah brother! ah fiend!" I cried—and fired.

'Never yet had I missed my aim, even when I held not my prey in my grasp. But at my first sign of life Constantine had started, and, content to leave his jubbee in my possession, had disengaged his person. My hand, besides, trembled with the effects of the fever—perhaps even with some instinctive sense of the dire office it was performing, and—the miscreant only received the ball in his shoulder.

'Uttering a dreadful yell, he made a spring at the door, and darted out. Ere I could find my other pistol, Eustathius too had made good his retreat. Both were out of sight in an instant, but not out of hearing. My ears bore witness to Stathi's stumbling down stairs, with such violence and outcry, as to make me entertain hopes that neither of them had entirely escaped the merited retribution.' vol. i. pp. 290—292.

Spiridion returns, hears a confused account of an attempt of Anastasius to shoot his brothers, enters into an explanation, in which Anastasius through pride withholds the provocation under which he fired, and determines to leave him again and for ever. This is one of the most high wrought scenes in the book, but we have room but for an extract.

'I went up to Spiridion's chamber.

'He was closing his portmanteau. The things about the floor had disappeared. All looked empty, orderly, and desolate.

'"What means this," cried I, affecting more surprise than I felt.

'"Only," replied Spiridion, "that what I said, I do."

'"Ah, my friend, my real brother," exclaimed I, "do you then, in sad earnest, purpose to leave me? Cursed be my tongue, which uttered what my heart had no share in; and cursed be my hand, which confirmed the untruths of my tongue!"

'"Anastasius," now said Spiridion, seating himself upon his little bundle, "fancy not your last words and actions to have been the sole and primary cause of a long-formed and long-resisted resolution. Its origin dates far higher. The unkind speeches and gestures of this day only gave the final impulse!

'"From children we were brothers in love. When you rescued me from death, the day that all our companions stood palsied by fear, gratitude only rivetted affection's prior links; and duty, I hoped, had rendered them indissoluble, when my father himself named you his second son! Many years his com-

mands of fraternal kindness to his Spiridion's preserver remained without fruit. You yourself best know how. Yet was the deep-rooted attachment of childhood never replaced by more recent friendships; and when I again beheld you at Constantinople, my feelings for my Anastasius still preserved all their freshness unfaded. Evil inclinations of no ordinary magnitude, indeed, I saw mixed with your better qualities; but I thought that, if freed from their alloy, your virtue too would eclipse ordinary virtue; and I imagined an unbounded devotion might enable me to become the instrument of so noble a reformation. I undertook the task. I resolved to save from perdition your soul, as you had saved my body; and I prayed the Almighty to bless the undertaking. Some return on myself also, some selfish feelings perhaps were mixed with my wishes for your welfare. I could not help fancying that, regenerated through me, you would become my support and my consolation in the irksome race I am destined to run; that in your turn, you might assist me in the struggles and dangers that strew the rugged path through which I am destined to journey. In short, I hoped that, each blessed in the other, we should toil through life together, and that when shone forth our last day, which ever was summoned first should only die in the other's loved arms. Great as were the pains you took to expose my presumption and to dispel my foolish dream, long did my soul firmly cling to its fond chimera; long did my heart hug it as a thing too precious to part with!

'"But there are lights that even strike the blind. Reluctantly, though irresistibly, I have at last been forced to see that no arguments, no persuasion, no labour of mine, have power to control the passions which enslave you; and that however I may strive, I still must leave you ungovernable, and you still must leave me wretched as before. Much as I tried to avert my eyes from the fatal truth, I have at last yielded to the painful conviction that, sooner or later, we still must end in separating for ever; and that, by trying to put off the evil day by struggling for a short and transient respite, I can only at last drink the cup with greater bitterness. I therefore submit to the decrees of Heaven: I bow to the will of Providence in flying from thee, as I erst hoped to fulfil it by following thy footsteps. In sadness I go; but I go, and for ever! Far from thee I henceforth shall live; and far from thee it will be my fate to die! Yet, Selim, thou art young still. What the anxious warnings of friendship could not perform, the leaden hand of time may achieve. It may allay the ferment of thy passions, clear away the impurities of thy heart, and—though I shall not witness the blissful change—still make thee great and virtuous. This happy consummation God in his goodness grant!"

'"Ah, Spiridion," cried I, clasping my friend in my arms: "You cannot, you shall not leave me thus!" But he, fearing his own weakness, in order to render a relapse impossible: "On my head be God's eternal curse—be that of my aged father!" he exclaimed, "if I do not immediately return to my paternal roof!"

'I now felt all remonstrance to be fruitless. "You are right," replied I. "The game could not go on between us. The stakes were not even. Loaded with the gifts of Providence, and accountable to your fellow creatures for their use, you may not squander your ample means on a barren soil, nor seek ruin with a reprobate whom you cannot save. Yet, if once Anastasius did possess your love, and still returns all your affection; if that wretch, that reprobate, in the midst of all his errors, never ceased to reverence your virtues; if his spirit, undaunted by all else, stooped to you, and worshipped you alone—Oh, Spiridion, listen! At present that, bereft of all hope, indeed weaned of all wish to hear a sentence repealed on which depends your peace, he for ever renounces the happiness of your society, nay, urges you himself to fly his baneful presence; at least grant this only last request—grant what he, who never yet humbled himself before mortal man, implores of you on his bended knee: tell him—lay this unction to his sickening soul to know—that you do not hold him in utter detestation!—that on leaving him to return no more, you at least feel a pang; and when—all earthly things gone by like unsubstantial shadows—comes the day of your reward in heaven for the good deeds done on this earth—when, before the throne of Mercy, arrayed in all your worth, you receive your well-earned meed of ineffable joy, cast back one look of pity on the wretch who, overwhelmed by the weight of his guilt, sinks while you rise to glory. Speak for him to your Maker one poor word of intercession: and beg he may not fall so low in the abyss of wretchedness, but that from an immeasurable distance he still may behold, and be consoled by your bliss!"

'"If at any time, here or hereafter," cried Spiridion, "I forget you, may heaven forsake me!"—and bending down his head, he wept aloud.

'After some time he rose up, and wiping away his tears: "I have made you," said he, "a promise to hold good for eternity; now make one in your turn to last only a short space of time."

'"Any you please," I answered.

'"What a temptation that!" rejoined my friend.—"But I shall not abuse your confidence. I shall not ask what you cannot perform. It was only a trifling favour I wanted for mutual mitigation. Take this watch," he added, giving me the one he wore; "and count just twenty minutes ere you stir from this

spot."—Saying which, he took up his parcel, and walked to the door. I tried to remonstrate and to stop him; but gently pushing me aside: "you have promised," he cried, and instantly disappeared. vol. i. pp. 294—297.

After he had been thus left to his fate by Spiridion, Anastasius wanders back to Egypt, and is again successful in the military career; upon which occasion the history of affairs in that country is brought up from the point where his former adventures left it, to 1787. His residence, however, in Egypt was short, and he returns to Constantinople, with a view of seeking employment under Mavroyeni, his first patron, who, as we have already stated, had arrived at the dignity of Hospodar of Wallachia. On reaching Bucharest, he is advanced by Mavroyeni to the command of the Arnaoots or Albanians in the war with Austria, then just broken out. As the constitution of Mavroyeni's army is precisely that of the Turkish forces at the present day, and as a conflict seems impending between those forces and the armies of Ali Pasha and his sons, the following sketch may enable our readers to form a conjecture as to the success likely to attend the efforts of the Porte, to reduce these powerful subjects.

'To defend this line of frontier most immediately threatened, Mavroyeni had early fixed, for the rendezvous of his chief forces, upon the plain of Fockshan, which took its name from an open place on the borders of the two principalities, belonging half to the one and half to the other. Thither were ordered in April from Bucharest, the Arnaoots, of which I commanded the principal division, together with as many Seïmen and provincial Janissaries as could be mustered. At the same time were marched thither from Sophia, where the Visier had now established his head quarters, several divisions of infantry and cavalry from the grand army—the stipendiary Janissaries under the command of their Sangeaks, or generals by promotion, and the feudal Spahees under that of their Agas, by descent. When all were arrived, the collective force at Fockshan might amount to twelve or thirteen thousand men. Of these various troops, however, none were to be depended upon, save the Albanians, brave by nature, and only deficient in tactics and discipline. Most of the Janissaries, or infantry, came from Anadoly. They were men engaged in the professions of peace, forcibly torn from their wives and families, and who only marched on foot when they could not afford a horse. The Spahees, or horse soldiers, on the contrary, often only hold-

ing their Zeeameth or Timar from some grandee, as the wages of domestic service, or sent as substitutes by the real fieffee, a woman or a child, scarce knew for the most part how to sit on horseback, and would have looked better on foot. Obliged to furnish their own equipment, and to find their own provisions, they were only occupied in calculating the length of their journey and the hour of their return, only stayed while the pillage of friends or foes afforded them a subsistence, and as soon as this mode of supply failed, considered themselves free to depart, and without asking leave, hurried back to their homes. The provisions supplied by government, and contracted for by the commanders, were, as usual, partly from neglect, and partly from fraud, at once so insufficient and so bad, that it was difficult to say which was calculated to produce the speediest mortality, their abundance or their failure. Destitute of all regular magazines, the troops must have been, if not poisoned, at least famished, but for the immense train of volunteer Tellals, or retailers, who always follow a Turkish camp, impede the progress of the army, and obstruct its retreat. When the pay of the soldiers runs short, these accommodating gentry take, in exchange for the necessaries with which they supply them, their arms, their accoutrements, and their horses. Thence, on a sudden emergency, half the Turkish infantry appear disarmed, and half the cavalry dismounted.' vol. ii. pp. 41, 42.

Mavroyeni, for his ill success in the war, is disgraced, and Anastasius alone, of all his dependents, follows the broken fortunes of his patron, who is soon released from his cares by a capidgee, despatched with a bow-string from Constantinople, for the neck of the fallen Hospodar. On his death, our hero returns to the capital, becomes fond of gain, puts what he had been able to acquire by extortion in Wallachia into trade, enters into partnership with a rich merchant, and saves nothing from the loss of both their fortunes, but the insurance of the vessel, in which they were embarked. The recovery of this carries him to Smyrna, and on his journey back again to Constantinople, we have an account, apparently authentic, of the singularly respectable life and character of Hadjee Bollad-Oglou, chief of the mighty house of Kara-Osman, lords paramount of a great part of Anadoly, (Asia Minor) and resident at Magnesia. It is contained in the seventh chapter of the second volume, but our limits do not allow us to make any extracts from it. Disappointed in a new commercial calculation, which had carried him again to Smyrna, Anastasius now engages in a life of dissipation, with

a set of profligate adventurers, which ends in the deliberate ruin of a beautiful girl, Euphrosyne, with the aggravation of the most cruel and merciless treatment of her, into which he was betrayed by the infamous machinations of a wretch, whose thirst of vengeance for a former slight, had led her to assist Anastasius in the seduction of Euphrosyne, and then to embitter their minds mutually against each other, by the calumnies which she fabricated and reported. The arts of this female Zanga are so successful, that Euphrosyne is driven by the cruelty of Anastasius from her abode, and expires in the horrors of want and suffering, in giving birth to a boy, without its being in the power of the miserable father to find her out, to ascertain her innocence, or repair the wrongs he had done her. Exhausted in fortune by the life of gaming and dissipation, which he had led, our hero places his child, (whom he first discovers after the death of its mother) in the care of some poor people, with the small resources for its support, which he could raise from the wreck of his means, and starts off himself, by the way of Aleppo, to Bagdad, to push his fortune with the rebel Pasha of that country.

The reader is now introduced to an acquaintance with the Wahhabees, the powerful and spreading sect, whose progress has been so often mentioned in our newspapers, but of whom so little is known. The arid but extensive province of Nedid, (we use our author's words) the inmost centre of Arabia, was not only the first cradle of Islamism, but the country where, in after ages, the doctrine of Mohammed remained most exempt from adulteration. The inhabitants of this province adhered to the text of the Koran under the simplest forms of worship, and became in time known as a separate sect of the faithful.

'And this happened toward the close of the seventeenth century. At that period the district of Ayani was ruled by a Schaich of the name of Suleiman, descended from the same noble family of the Koreïsh—now reduced to a few obscure individuals—whence sprung the Prophet. This Schaich derived a considerable income from the numerous herd of camels which he let out to the Indian Mohammedans who yearly disembarked at Katif, and traversed Ared in their way to Mekkah: but loaded with riches, he long remained unblessed with progeny. In his old age, and when he no longer had any hopes of offspring, heaven most unexpectedly bestowed on him a son.

'Every species of prodigy is said to have announced and accompanied the birth of this high-fated child. An universal earthquake made every mosque that rests upon the ground shake unto its foundations, and every minaret that shoots up in air topple on its base; and while, during several successive nights, cities, villages, castles, and fields shone with a supernatural and brilliant light, the lamps which burned in the sepulchral chapels of Mohammed, and of the other saints of Islamism, were dimmed and went out preternaturally, spite of Imams and of snuffers: miracles so well attested, that no one can doubt them, except determined unbelievers.

'Abd-ool-wah-hab, or the slave of the Most High, was the name given to the infant, for whom heaven seemed to reserve such lofty destinies. Sent to study the law in the most celebrated medresses of Damascus, the youth learnt from the sturdiest Mohammedans themselves to attack the corruptions introduced into their creed. He no sooner returned to his home, than he began publicly to preach the necessity of a thorough reformation.

'His doctrine has been represented as pure Deism; but nothing can be more erroneous. Abd-ool-wah-hab maintained not merely the divine origin of the Koran; he might even be said to enhance the importance of the sacred text, by asserting that alone it was able to supply all the spiritual wants of the faithful, without any adventitious aid, and by divesting of the smallest remnant of authority every article of faith, or rule of conduct, since added to the book sent from heaven, either by the Prophet himself, or by any of the later doctors of Islamism: for while Abd-ool-wah-hab regarded the Koran as received directly from the Most High, he considered Mohammed, its organ, as only an ordinary mortal. Endowed, according to the new sectary, with no one superhuman attribute, no gift of miracles, no peculiar sanctity, this man resembling other men could not give a stamp of holiness, even to such oral precepts distinct from the Koran as he himself spontaneously uttered; and if any worship, addressed even to Mohammed, was reprehensible in the eyes of Abd-ool-wah-hab, still infinitely more so was the least character of sanctity attached to other individuals—Imams, doctors, or expounders of the law. Pilgrimages performed to peculiar tombs, virtue attributed to peculiar relics, were treated as rank idolatry; and the first pious performance enjoined the new proselytes, when they had acquired sufficient strength, was the destruction of the chapels of Mekkah and Medina, of Iman-Aly and Iman-Hussein, where Sunnees and Scheyees yearly unite in devout orisons to the ashes of the pretended saints. Their dust was, like that of the desert, to be scattered in the wind; and the treasures which adorned their monuments were to reward the piety of their despoilers.

'When about the middle of the eighteenth century, Abd-ool-wahhab, oppressed with years of renown and sanctity, was at length gathered unto his fathers, his son Mohammed, educated like himself in the study of the law, and consequently also distinguished by the title of Moollah, succeeded him as preacher of the new doctrine. Mohammed gave himself more wholly up to its internal light, since that from without penetrated not his eyes, struck from his childhood with incurable blindness. This circumstance indeed prevented him from leading out his proselytes himself, in the wars for the defence or propagation of his new creed, but its irrefragable truth had already found a champion of the most martial description in Ibn-Sehood, the supreme ruler of Ared, who resided at Derayeh, and who became the temporal chief of the Wahhabees, while Moollah-Mohammed remained their spiritual leader.

'From the moment that the new doctrine, adopted by old established princes, became enabled to add the force of arms to that of arguments, it made rapid and extensive progress. Almost immediately on the promulgation of Wahhabism, its more recent name had sanctioned the tenets already professed of old by the roving tribes of the desart; and soon after its establishment in the Ared, the stationary Schaicks of the province of Kherdj enlisted under its banners. It now rapidly approached the Hedjas; and the Shereef of Mekkah, the guardian of the Kaaba, began to tremble for his power and for his dominions. Loudly inveighing against the apathy with which other states saw the danger approach them, he determined to avert it from the realms he ruled, by promoting a powerful diversion.' vol. ii. pp. 153—155.

It was against these Wahhabees that Anastasius undertakes to raise a troop of Dellis, in the service of the Pasha of Bagdad, who had been ordered to march against them by the Porte. In consequence, however, of false suspicions entertained of him, as being a Wahhabee in disguise himself, he is soon obliged to fly from Bagdad, and takes refuge with the sect whom he had been preparing to march against. Here we are introduced into a life wholly new, of the true Old Testament simplicity, in the tents of the Bedoween Arabs. Anastasius acquires their confidence, and marries a daughter of their tribes: a singular character, of the Lady Sarah Lidhurst cast, who, if the sketch be not borrowed more from a European than an Arabic original, (and we are free to confess that our author appears to have been betrayed away from his orientals here,) shows that the glorious art of tormenting yourself and those you love is as well under

stood in the deserts of Arabia, as in the parlors of European civilization. His wife, however, dies; and leaving the Wahhabees, Anastasius descends to the coast; after having had the good luck to acquire a considerable fortune, by the plunder of a rich merchant in a caravan, which he had attacked with another tribe of Arabs, to whom he had joined himself for the occasion. He arrives at Acre, and relates us the history of Djezzar Pasha, the butcher, which the reader will find in the fifteenth chapter of the second volume. Returned to Constantinople, he forms the plan of converting his effects (into the mode of acquiring which, as the reader will judge from the specimen just given, it is not safe too curiously to pry) into bills of credit, and going with his child, whom he expected to find at Smyrna, to pass the remainder of his days at Trieste.

He finds in Smyrna no trace of his child, and but an indistinct one of its having been carried to Egypt by the wife of a foreign consul. Thither he pursues it, and after many fruitless efforts, discovers it in the following manner.

'Nor was I long without descrying at a distance a child approaching, whose dress belonged not to the country. A female held it by the hand; but from *her* my very first glance recoiled as from a total stranger—one who bore not the least resemblance to the nurse of my Alexis.

'"It cannot be he!" sighed I to myself; and yet, so playfully did the little fellow trip along, so erect was his gait, and so noble his mien; with so lively and inquisitive a manner did he stop to survey each new object in his way, that I envied his too happy parents, and could immediately have given up all paternal claims elsewhere, for a good title in the treasure before me. "Ah!" thought I, "had this angel been my own!" But as he drew nearer—as by degrees I discerned more of his countenance and his features—as I became enabled more distinctly to trace the outline of his serene and radiant front, of his dimpled downy cheek, and of his wavy coral lip—as, above all, he himself, with a look at once arch and innocent, fixed upon me his full bright eye—that eye which so eloquently spoke the heaven of his heart—O God! O God! all Euphrosyné at once burst upon my senses; entire convinction in an instant filled my mind. I felt it must be, it *was*, my own Alexis, my own babe, I beheld!' vol. ii. p. 247.

The guardians of the child, who had adopted it as their own, resolved on not resigning it to Anastasius, whom they

regarded either as an impostor, or if the true father, as a profligate person, to whom the child ought not to be intrusted, throw such obstacles in the way of his recovering it, that it is only by setting fire to their house (a process wholly unknown in our law in similar cases) and availing himself of the moment of their flight, to wrest the child from the arms of the person who carried it, that he is able to get possession of it. Having thus with difficulty recoved his child he escapes with it, amidst the greatest dangers from pursuers, and succeeds in reaching a boat and a ship bound for Europe. He spends the voyage in familiarizing the child to its strange new father, and succeeds in gaining its confidence and love. He arrives at Malta, in the lazaretto of which he makes the first discouraging specimen of European hospitality. Following our hero to the Italian coast, we are carried with him into the fashionable circles of Naples; but the pictures now seem to lose the brilliant colouring of the East. We are tired with traits of manners with which we are familiar. After a hasty visit to Rome, our Grecian hero embarks with his boy at Ancona for Trieste. The leakiness of their vessel compels them to quit it on the Dalmatian coast for a Ragusan, and the suspicion of the plague resting on that subjects them to a quarantine on arriving at Trieste. It was his intention here to have settled down in tranquillity, devoting himself to the education of his child; when an unexpected calamity, the only one which could now befal him, broke in upon this dawn of happiness.

'The blue sky seemed to smile upon my cheerful thoughts and the green wave to murmur approbation of my plan. Almighty God! What was there in it so heinous, to deserve that an inexorable fate should cast it to the winds.

'In the midst of my dream of happiness, my eye fell upon the darling object in which centered all its sweets. Insensibly my child's prattle had diminished, and had at last subsided into an unusual silence. I thought he looked pale; his eyes seemed heavy, and his lips felt parched. The rose, that every morning still so fresh, so erect on its stalk, at mid-day hung its heavy head, discoloured, wan, and fading; but so frequently had the billows, during the fury of the storm, drenched my boy's little crib, that I could not wonder he should have felt their effects in a severe cold. I put him to bed, and tried to hush him to sleep. Soon, however, his face grew flushed, and his pulse became fever-

ish. I failed alike in my endeavours to procure him repose and to afford him amusement; but though play things were repulsed, and tales no longer attended to, still he could not bear me an instant out of his sight; nor would he take any thing except at my hands. Even when—as too soon it did—his reason began to wander, his filial affection retained its pristine hold of his heart. It had grown into an adoration of his equally doting father; and the mere consciousness of my presence seemed to relieve his uneasiness.' vol. ii. pp. 286, 287.

The distress of this unhappy moment is wrought into agony by a protracted calm, which delays the ship's progress. At length they arrive at Trieste, but the suspicious health of the vessel throws new delays in the way of procuring medical aid for the suffering child of Anastasius. No part of the work is better written than this. The following is the description of the scene on the quay, and the subsequent burial of his child, whom he had recovered but to lose forever.

'Lest Alexis might feel ill at ease in my lap, I laid him down upon my cloak, and kneeled by his side to watch the growing change in his features. The present now was all to me: the future I knew I no longer should reck. Feeling my breath close to his cheek, he half opened his eye, looked as if after a long absence again suddenly recognizing his father, and—putting out his little mouth—seemed to crave one last token of love. The temptation was too powerful: I gently pressed my lip upon that of my babe, and gathered from it the proffered kiss. Life's last faint spark was going forth, and I caught it on the threshold. Scarce had I drawn back my face, when all respiration ceased. His eye-strings broke, his features fell, and his limbs stiffened for ever. All was over: Alexis was no more—Euphrosyné avenged—and Anastasius the wretch he had long deserved to be!

'I shed no tears; I moaned not; I made myself not a spectacle for the gaping multitude: but, ordered to the lazaretto, I threw my cloak over what had been my heart's best treasure, and, with the sacred burthen in my arms, silently proceeded to where I was shown my temporary prison.

'After frequent relapses, I prepared to perform to my child's sad remains the last duties of a man, a Christian, and a father. In the gloomy precincts of the lazaretto I saw the narrow cell dug which henceforth was to hold all I cared for on earth. Then, kissing for the last time those faded eyes which never more were to beam upon me, and those livid lips which no longer felt the pressure of mine, I suffered the dreary winding-sheet of death to

shroud from my further view my angel's altered features; and carried him weeping to his last home; but when the moment came—after the priest had concluded his office—to lower into the foul jaws of the grave, and to resign to corruption that lovely body—that last relic of my short lived felicity, I scarce felt courage for the dismal task: I clung to what I was going to lose, until fresh violence became necessary: and when over the idol of my boastful heart I again beheld the ground made like all other ground: "Now come," cried I, "when it list, my own final hour! I shall hail it as the healer of sorrows—as the friend who springs forward to receive suffering man, when all other friends depart."' vol. ii. pp. 290—296.

The desertion of Anastasius is completed by a rencontre with his ancient friend Spiridion, who slowly recognizes and coldly receives him, and whom in his turn Anastasius, by departing from Trieste, now leaves forever. On his journey through Carinthia he is struck with the secluded appearance of a cottage on the way, and takes up his abode there. He here forms an acquaintance with a young couple in his neighbourhood, who had known better fortunes; and the husband, Conrad, commits these memoirs to writing, on the dictation of Anastasius. They are soon brought to an end by that of their subject, who dies in the arms of Conrad.

'The third morning after this speech, Conrad, coming in at an early hour, found not his patient, as usual, on his pillow. Anastasius had made shift to creep out of bed, and was kneeling before a chair on which rested his face. At first he seemed in a swoon: but, discerning the approach of his friend, he held out his trembling hand to him, and, trying to raise his head, faintly cried out, "Heaven takes pity at last Thanks, O thanks for all your goodness!" and immediately relapsed. After a second interval of apparent absence, a second fit of momentary consciousness followed, when Conrad, stooping, heard the poor sufferer utter, but in a voice almost extinct: "O my Alexis, I come!" and immediately saw his head fall forward again. Conrad now tried to lift him into bed, in order that he might be more at ease. There was no occasion: Anastasius was no more.' vol. ii. pp. 313, 314.

Such is a very meagre sketch of the narrative of this book, scarcely full enough, we fear, to excite an interest in the person of the hero, or justify the length to which our article has run. But we should rather that our account should fail of

exciting this interest, than that exciting, it should not gratify it: for after all, we are afraid to recommend the book itself to indiscriminate perusal. Some parts are dull and some offensive; and the whole of it requires more geographical knowledge to be read understandingly, than can be supposed to be in the possession of general readers. For notwithstanding what we have said of the elevated character of the novel writing of the present day, we presume no one ever reads a novel with a map. Without a very good map, Anastasius will be unintelligible.

We ought, before quitting the work, to praise the freedom from ostentation, with which this great mass of information is brought together. A few notes, scarce any of them more than two or three lines long, contain the *materiel*, from which an accomplished book-maker might easily have spun an octavo. We are unable to extend this commendation to the orthography made use of in writing the proper names, a matter of no small moment in a work containing so many. If the principle followed, as one would sometimes think, be to spell them in such a manner as best to convey their oriental pronunciation to an English eye, we are wholly unable to conceive why, by turns, the peculiar orthography of almost every modern nation of Europe is admitted; why we should have Sotiri, Tshawooshes, Kehaya, Reïs, Capoose, Yaoor, &c. none of which express the Greek or Turkish pronunciation to an English reader.

Art. XV.—*Speeches of the Governors of Massachusetts, from* 1765 *to* 1775, *and the Answers of the House of Representatives to the same; with their resolutions and addresses for that period. And other public papers relating to the dispute between this country and Great Britain, which led to the Independence of the United States.* Boston, Russell & Gardner, 8vo, pp. 424. 1818.

There are few works calculated to let the reader so fully, and at the same time so agreeably, into the real character of the controversy, which led to our revolutionary war, as the work before us; and no one which ever gave us so high an opinion of the men by whom that dispute was managed. It is not enough for us to know what battles were fought in the

war of independence, with the numbers who died, and the gallant achievements which were performed in those battles. All this will not have taught us the real history of the revolution, of the great moral and political change which took place in the people. We shall still have to learn how it was, that the ardent loyalty, for which this people were once remarkable, and which had become almost a part of their nature, was defaced and obliterated; and how it was that a number of small provinces, who had always been in the habit of viewing themselves as weak and dependent, were wrought up to such a pitch of resolution, as to dare so unequal a contest, and to persevere in it as they did. It is from books like the one before us, that this knowledge is to be gained.

It is however to be recollected, in reading this book, that the controversy between the colonies and the parent state was managed more by the people than by the legislatures. At least this was the case in New England. Yet in saying this we by no means intend to intimate that the legislatures ever shrunk from any responsibility which it was their duty to assume. The volume before us would amply refute such an intimation. Their caution, though great, was not superfluous; on the contrary, their general course of conduct was throughout such as, to us at the present day it seems it ought to have been. In two instances, at least, it would probably have been in the power of the legislature of Massachusetts to have roused the people to open resistance; we mean upon the occasions of the Stamp Act and of what has usually been called the Boston Massacre. It is well that they did not; it is well that they interposed by their example to allay the popular ferment, and to discountenance whatever might have the appearance of a mob-like fury. If they had acted differently, their resistance, instead of being the commencement of a great and honorable revolution, would have been merely the rebellion of a single province; and the men who have since found themselves guiding the affairs of a powerful nation, might have stained the scaffold with their blood. It is not however our present intention to trace the progress of the principles of the revolution, nor even (although our remarks will necessarily assume somewhat of an historical form) to give a history of Massachusetts for the period to which these documents relate. We shall endeavour to give such an account of the contents of the work before us, as will enable our readers to form an idea of

the character of the book itself; and of the manner in which the controversy, to which it relates, was conducted on the part of the legislature; though from the great number of topics to which we shall have to allude in a short space, it is not improbable that our remarks may seem thrown together without sufficient connexion.

This collection commences with the speech of Governor Bernard at the opening of the session of the legislature in October 1764. It is very surprising that it did not rather begin with the session immediately preceding. We have upon a former occasion* given an account of that session, to which we refer our readers. At present we have only to state that in March 1764, resolutions for imposing taxes and duties on the colonies had passed the British House of Commons. On the last Wednesday of the May following, the legislature of Massachusetts Bay assembled, and their attention was soon directed to the consideration of the Act of Parliament, 'for granting certain duties in America,' which had passed in conformity with the beforementioned resolutions, and to the Stamp Act, with which they were threatened, but which had not yet passed. They directed a treatise, written by one of the members, James Otis, on the rights of the British colonies in general, and of this province in particular, to be sent to their agent in London, accompanied by a letter of instructions, which contained an animated declaration of their rights, and in which, amongst other expressions equally strong, they say that the power of levying their own taxes 'is the grand barrier of British liberty, which if once broken down, all is lost.' Besides this, a committee was appointed 'to acquaint the other governments with the instructions sent to their agent'—'and in the name and on the behalf of the House to desire the several assemblies on this continent to join with them in the same measures.' This last measure was one of much importance, for it was the first attempt made to unite the colonies in opposition to Parliament. In the article before alluded to, we have given a pretty full account of these instructions, and we repeat thus much of what we then said, only that we may express our astonishment and regret, that the documents of that session of the legislature were not inserted in this volume. If there were any propriety in

* Review of Novanglus and Massachusettensis, vol. ix. p. 387.

attributing the revolution to any single legislative act, which we deny there is, these instructions and the mode adopted of promulgating them would be sufficient to refute the assertion, which has been lately made in a highly respectable quarter, that the revolution commenced with the declaration of Virginia, made about a year afterwards, that the attempt to vest the power of laying taxes upon the province in any person or persons, other than the general assembly, 'had a manifest tendency to destroy British as well as American freedom.'

The day after the House had finished the business of the instructions, the Governor prorogued them to the 25th of July. It was not however his intention that they should then meet, for he dreaded the spirit they had discovered at their last session, and which he knew to be but a representation of the feelings of the people. He accordingly prorogued them by three several proclamations until the 18th of October, when finding the public clamor too loud to be longer resisted, he permitted them to convene.

This volume, we have before said, begins with his speech at the opening of this session. The House immediately prepared an address to the King, which was sent to the Council for concurrence.* It here encountered a strong opposition from Mr. Hutchinson and his friends. Hutchinson was a man of consummate ability and address, and of great influence. He succeeded in obtaining a committee of conference with the House, of which committee he was himself appointed chairman. Having wearied the committee with an opposition of ten days, and embarrassed the House by the counteracting votes of the Council, he at length succeeded in having a petition to the House of Commons substituted for the address to the King. This petition is given in the volume before us. It solicits the repeal of the obnoxious act of Parliament, principally on the ground of expediency and convenience. A letter of instructions to their agent in London accompanied this petition, in which the legislature say, 'they have been induced thus to petition,' in consequence of a suggestion made by the agent and another gentleman in England, 'that a decent remonstrance might procure some relief.' They add, 'we have endeavoured to avoid giving offence, and have touch-

* Minot.

ed upon our rights in such a manner, as that no inference can be drawn, that we have given them up on the one hand, nor that we set up in opposition to the Parliament, nor deny that we are bound to the observance of the acts of Parliament, on the other. But in a letter to you, we may be more explicit on this point—a right, the people of the colonies have undoubtedly by charter and commissions to tax themselves. So far as the Parliament shall lay taxes on the colonies, so far they will deprive them of this right. If the first settlers of the colonies had not imagined that they were as secure of the enjoyment of this right, as of their titles to their lands, in all probability they would never have left England, and no one colony could have been settled.' (p. 24) The tone of this petition, so different from the spirited instructions of the last session, gave great disgust to the people. But notwithstanding this, and the manner in which the House was drawn into the measure, yet as we have formerly intimated, it may be doubted at the present day, if it were not the wisest course which, under all circumstances, could have been adopted.

At the next session (in January 1765) nothing important appears to have been done. The legislature, although they had given offence to their constituents by their conciliatory course at the last session, could not now retract; and they appear, from their answer to the Governor's speech, determined to wait until they had learned the effect of their petition. Before however the new legislature assembled, which happened on the 30th of May following, the news of the passing of the Stamp Act had arrived. The triumph of those who condemned the mild petition of the last legislature, and the mortification of those who had been induced by Hutchinson to believe that language, such as was then used, and such alone, would be attended to, were complete. In his speech at the opening of the session, the governor appears anxious to avoid the subject of the Stamp Act, the subject which was uppermost in every man's mind; and talks about pot ash, and lumber, and hemp, which, he tells the legislature, 'are proper objects of their concern;' and in the conclusion cautiously reminds them of the supremacy of Parliament. The House, however, without waiting to answer the governor's speech, 'taking into consideration the many difficulties to which the colonies are and must be reduced by the operation of some late acts of Parliament,' appointed 'a committee to consider what meas-

ures had best be taken, and make report.' There were wanting no declarations of the rights of the province, for time and again had the principle been asserted, that the province had the exclusive right of assessing their own taxes; no resolutions were necessary to rouse the minds of the people, for these were already inflamed; and as to petitions, they had found by recent experience how little attention was paid to them, at least when proceeding from a single province, though couched in the most conciliatory and respectful language. The Committee reported:

'That it is highly expedient there should be a meeting as soon as may be, of committees from the Houses of Representatives or Burgesses in the several colonies on this continent, to consult together on the present circumstances of the colonies, and the difficulties to which they are and must be reduced by the operation of the late acts of Parliament for levying duties and taxes on the colonies, and to consider of a general and humble address to his Majesty and the Parliament to implore relief.' p. 35.

It was proposed that this convention should meet at New York on the first Tuesday of October then following. This report was immediately accepted; and James Otis, Col. Partridge of Hatfield, and Timothy Ruggles were elected delegates from Massachusetts Bay. The Congress assembled at the time and place appointed. Delegates from nine provinces were present. In the first place they prepared a general declaration of the rights and grievances of the colonies. In it they assert that the colonists are entitled to all the rights and liberties of natural born British subjects; that it is one of these rights, and essential to the freedom of a people, that no taxes be imposed on them, but with their own consent, given personally or by their representatives: that from local circumstances they cannot be represented in the House of Commons of Great Britain: and that no taxes ever have been or can be constitutionally imposed upon them, but by their respective legislatures. They likewise declare that the obnoxious acts of Parliament have a manifest tendency to subvert the rights and liberties of the colonies. In addition to this they addressed petitions to the King and to each House of Parliament. The petition to the King is inserted in the volume before us. It is written with ability and dignity. We do not know that the editor was bound by the nature of his

undertaking to give us any of the documents of this Congress; but as he has seen fit to favour us with one, and only one of them, we should have supposed the declaration of rights would have had the preference, as being the most important. It was no small point gained in the progress of the principles of opposition, that so many colonies had been brought together to discuss their common rights, and compare their feelings and opinions. It was so viewed in England, and was made the subject of a special representation to the King from the Lords Commissioners of trade. We have given extracts from this representation in the article to which we just now referred our readers.

In August the riots took place in Boston, in consequence of which the governor convened the legislature in September. His speech to the two Houses begins:

'I have called you together at this unusual time in pursuance of the unanimous advice of a very full council, that you may take into consideration the present state of the province, and determine what is to be done at this difficult and dangerous conjuncture. I need not recount to you the violences that have been committed in this town, nor the declarations that have been made that the act of Parliament for granting stamp duties in the British colonies shall not be executed within this province. The ordinary executive authority is much too weak to contradict such declarations, or oppose the force by which they are supported. It has therefore been found necessary to call the whole legislative power in aid of the executive government. From this time this arduous business will be put into your hands, and it will become a provincial concern.' p. 39.

And as he 'desires not to dictate, and would avoid the appearance of doing it,' he says:

'I shall resolve what I have to recommend to your consideration into mere questions, and avoid assertions of my own in matters which are doubtful.'

He proceeds to warn them in this manner of the consequences of refusing to execute the Stamp Act, and desires them particularly to consider what effects the stopping of two kinds of offices only, the Courts of Justice and the Custom Houses, will have upon the generality of the people. In conclusion he recommends to them to make compensation to the sufferers by the late riots, telling them it will be better for them to do it 'of their own accord, before any requisition is made to them.'

We have room only for the following extracts from the answer of the House.

——'We beg that your Excellency would consider the people of this province as having the strongest affection for his Majesty, under whose happy government they have felt all the blessings of liberty. They have a warm sense of the honour, freedom, and independence of the subjects of a patriot king; they have a just value for those inestimable rights which are derived to all men from nature, and are happily interwoven in the British constitution. They should esteem it sacrilege for them ever to give them up; and rather than lose them, they would willingly part with every thing else. We deeply regret it, that the Parliament has seen fit to pass such an act as the Stamp Act; we flatter ourselves that the hardships of it will shortly appear to them in such a point of light, as shall induce them in their wisdom to repeal it. In the mean time we must beg your Excellency to excuse us from doing any thing to assist in the execution of it. Were we, in order to avoid assertions, to resolve what we have to say on this head into mere questions, we should with all humility ask, whether it would be possible for us to add any weight to an act of that most august body, the Parliament? Whether it would not be construed as arrogance and presumption in us to attempt it? Whether your excellency can reasonably expect that the House of Representatives should be active in bringing a grievous burden upon their constituents? Such a conduct would be to oppose the sentiments of the people whom we represent, and the declared instruction of most of them. They complain that some of the most essential rights of Magna Charta, to which as British subjects they have an undoubted claim, are injured by it; that it wholly cancels the very conditions, upon which our ancestors settled this country, and enlarged his Majesty's dominions, with much toil and blood, and at their sole expense; that it is totally subversive of the happiest frame of subordinate civil government expressed in our charter, which amply secures to the crown our allegiance, to the nation our connexion, and to ourselves the indefeasible rights of Britons.' p. 46.

They expressed their disapprobation of the late riots; but declined making compensation to the sufferers; alleging that such compensation might have a tendency to encourage such outrages in time to come, and that they could see no more reason why, in this case rather than in any other, the crime of a few individuals should be chargeable on the whole community.

On the second day of the session, the governor sent a message to the two houses informing them of the arrival of a ship with stamped papers on board for the use of this province, and the neighbouring provinces of New Hampshire and Rhode Island. Mr. Oliver, who had been appointed distributor of the stamps, had declined the office; probably much against his inclination; but such was the popular excitement, that no man would have dared to accept so odious an office. The governor therefore applies, in this message, for the advice and assistance of the legislature, in order to preserve the stamped paper. The two houses returned a very short answer, merely expressing their hope, that his Eccellency would excuse them if they could not see their way clear, to give him any advice or assistance in the case.

At this session the house likewise passed a series of resolutions, declaratory of their rights and grievances, in one of which they say—'that all acts made by any power whatever other than the general assembly of this province, imposing taxes on the inhabitants, are infringements of our inherent and unalienable rights as men and British subjects, and render void the most valuable declarations of our character.' (p. 51.)

The legislature had been convened, as we before stated, for the purpose of curbing and restraining the discontent of the people under the Stamp Act. From the account we have given of their proceedings, it will seem that almost any other effect was likely to result from their continuing together. About the first of November the governor dissolved them, and in doing so delivered a speech in which he complains much of the injustice which has been done him as an individual. 'What,' he asks, 'have I done to deserve this?' He tells them, 'it is his misfortune to be the governor of the province at the time, when parliament have seen fit to tax the colonies; and this imposed upon him a necessary duty. This is his offence; but really it is the offence of his office; and against that and not against his person should the public resentment be directed.' Governor Bernard was a man of talents of a certain kind; but he was hardly equal to the delicate and difficult situation in which he was placed. He came to the government of Massachusetts with the most flattering prospects of a peaceful and popular administration, and in ordinary times these prospects would probably have

been realized. But by birth an Englishman, and in his political principles attached to the prerogative, it is not surprising that his sense of duty frequently suggested conduct in itself sufficiently obnoxious; and Bernard had none of the skill which enables some men to perform unpleasant duties, and at the same time to screen themselves from much personal odium. He soon became unpopular, and the loss of his popularity seems sensibly to have affected him. He discovers great solicitude to have it thought that he performed what appeared to him his duty and no more than his duty, and manifests some surprise and not a little ill temper that his motives were not always appreciated, nor due allowances made for the difficulties of his situation. We certainly think that these allowances were not made—at the present time we may perhaps be permitted to say this. But then for a man to lose his equanimity because the opposite party, in forming its opinion of his conduct, does not take into consideration all the circumstances under which he acted, is pretty good proof that he is not calculated for the turbulent scenes of politics. To add to the vexations of Bernard's situation, he had to contend with men who were far his superiors in talents; a fact of which neither he nor they appear to have been unconscious. We see no proof of Bernard's having acted otherwise than conscientiously; and as far as his general conduct is known to us, we can account for it upon other grounds. We can easily believe too, though we know nothing of the fact, that Bernard was an amiable man in private life, notwithstanding the irritation and wish to criminate his opponents, discovered in his controversies with the house. In short he was placed in a situation to which he was not equal; and was in constant collision with men who could at any time lash him into petulance, and then take advantage of his attempts to retaliate.

As the assembly was prorogued immediately after the delivery of the speech we have mentioned above, no answer could then be returned to it. This, however, was a duty the house were not likely to neglect; and accordingly one of the first things they did, at the ensuing session in January, was to choose a committee for this purpose, of which James Otis was chairman. We have room only for the following extract from this admirable answer.

'Your Excellency's manner of expression, in another part of your speech, fully shows that you have in some measure altered, or at least suspended your opinion of the people of this province in point of their loyalty; in speaking of which you make use of the time past and future, without mentioning the present. "No one," you tell us, "has been louder in proclaiming the loyalty of this people than yourself. You have boasted of it; you have prided yourself in it." And then you add, "that you trust the time will come when you shall do so again." Your present sentiments of them you hide in silence, for which a reason seems to be implied in the hopes you express, "that an estimate of this people will not be formed from a review of the present times." Of the present times, may it please your Excellency, impartial history will record, that the people of this continent, after giving the strongest testimonies of their loyalty to his Majesty, particularly by making their utmost exertions in defending his territories and enlarging his dominion in this part of the world, upon a motion made in this house, gave an equal testimony of a love of liberty and regard to those principles, which are a basis of his Majesty's government, by a glorious stand, even against an act of Parliament, because they plainly saw, that their essential unalienable right of representation and of trials by jury, the very foundation of the British constitution, was infringed, and even annihilated by it. But that they had knowledge and virtue enough to regulate their opposition to it by the law, and steadily to persevere in such steps as the constitution has prescribed to obtain its repeal; that is by humble, dutiful, and loyal representations to his Majesty and the parliament." p. 61.

Again.

'We are glad, however, to find that the difficulty of the times is, in a great measure, removed; and we trust the province will be soon restored to its former tranquillity; your Excellency is pleased to add, "reputation." The custom houses are now open, and the people are permitted to do their own business. The courts of justice must be open; open immediately, and the law, the great rule of right in every county in the province, executed. The stopping the course of justice is a grievance which this house must inquire into. Justice must be fully administered through the province, by which the shocking effects, which your Excellency apprehended from the people's non-compliance with the stamp act, will be prevented. Nothing now remains but to support the king's executive authority in this province, for which there is sufficient provision in the laws; and patiently to wait in hope that the humble, dutiful, and loyal application, jointly made

by the people of the continent for the repeal of the act will be succeeded. And though your Excellency has told us, that you never thought it proper to express your sentiments against the act, we have reason to expect, that as it is "a business in which you have no pretence to interpose," you have never taken any steps to prevent its repeal.' pp. 61, 62.

'The Courts of Justice must be open, open immediately.' Just at the close of the last session, the Council had passed a vote, stating that Mr. Oliver had declined the office of distributor of stamps, 'and as that it is not supposed, that any person will think it consistent with his reputation to act in said office;' the judges and all others who are required to make use of stamped papers, are directed to proceed in the execution of their offices, as if the stamp act had not passed. This resolution had been committed in the House, and at the present session another resolution passed the House containing the same order with that of the Council, and likewise a pointed condemnation of the act of shutting up the courts. This was sent to the Council, but was there non-concurred, in consequence, as stated, of their having received assurances from the judges, that at the next term business should proceed as usual.

Thus the attempt to enforce the Stamp Act proved utterly ineffectual. The bales of stamped paper remained unpacked at Castle William; no man being bound to open and distribute them and no one thinking it prudent to act as a volunteer upon the occasion; and the business, in which the paper was to have been used, proceeded 'as if said act had never been passed.' What would have been the result of all this, if the same men had continued in power by whom the Stamp Act was proposed, it is impossible now to determine. Luckily events prevented its being ascertained. The Grenville party, in consequence of circumstances unconnected with the colonies, fell from power, and were succeeded by men more friendly to the colonies, or who had less faith in the practicability of taxing them. The repeal of the Stamp Act diffused the most enthusiastic joy throughout America. It did not, however, in all the provinces, serve to allay the spirit of opposition. In New York, Massachusetts and the other Northern commercial districts, the acts of trade were considered as hardly less obnoxious than the Stamp Act. We accordingly find at the next session of the legislature of

Massachusetts, which began on the last Wednesday of May, 1766, nearly the same temper prevailing which had hitherto marked their proceedings. The controversy did not commence here with the Stamp Act and was not likely to terminate with it. A system had been adopted, and parties were marshalled for and against that system. The dispute had been conducted upon principles so general, it had extended itself over so wide a surface, and the feelings it had awoke had become so habital, that harmony could not be restored by the abandonment of a single measure, however interesting that for the time had been. The House made choice of James Otis as their speaker, and the choice was negatived by the governor. In the election of councellors, Thomas Hutchinson, A. Oliver, P. Oliver, and E. Trowbridge, who had been of the board for several years, were omitted. The governor in return negatived six of the gentlemen who had been chosen. This exclusion of the friends of government from the council gave great offence to the governor; and in his speech upon first meeting the two Houses, as well as in one delivered a few days afterwards, he animadverts upon it with great severity. 'When,' says he, 'the government is attacked in form; when there is a profest intention to deprive it of its best and most able servants, whose only crime is their fidelity to the crown, I cannot be indifferent; but find myself obliged to exercise every legal and constitutional power to maintain the king's authority against this ill-judged and ill-timed oppugnation of it.' (p. 75.) 'It must and will be understood that these gentlemen are turned out for their deference to acts of the Brtish legislature.' 'It is impossible to give any tolerable colouring to this proceeding.'

The House, in their answers to these two speeches, very coolly observe—'The integrity and uprightness of our intentions and conduct is such, that no "colouring" is requisite, and therefore we shall excuse ourselves from giving any.' 'We are wholly at a loss to conceive how a full, free, and fair election can be called "an attack upon the government in form," "a professed intention to deprive it of its best and most able servants," "an ill-judged and ill-timed oppugnation to the king's authority." We were summoned and convened here to give our free suffrages at the general election, directed to be annually made by the royal charter. We have giv-

en our suffrages according to the dictates of our consciences, and the best light of our understanding.' 'Had your Excellency thought fit to have favoured us with your sentiments and opinions of the candidates previously to the election, it could not more have arrested our attention as a breach of our privileges; and it would surely be as proper to give intimations of this kind before, as now the business is past a remedy, for this year at least.' Again—'Had your Excellency been pleased in season to have favoured us with a list, and positive orders whom to choose, we should, on your principles, have been without excuse. But even the most abject slaves are not to be blamed for disobeying their master's will and pleasure when it is wholly unknown to them.'

But the question of most importance at the present session, was as to making compensation to the sufferers by the riots during the Stamp Act. We have seen that governor Bernard had formerly advised this measure; and he now laid before them a letter from one of the secretaries of state conveying a recommendation of the measure from the British Parliament. In the vote of Parliament the word *recommend* had, after a long debate, been substituted for some other, which would probably have been more obnoxious. This circumstance, together with the advice of their agent in England, Mr. de Berdt, a wish not to disgust their friends in Parliament, and especially their own disapprobation of the conduct of the rioters, were probably their reasons for departing from their original determination on the subject. It was not, however, without great hesitation that the House complied with the recommendation. To the governor's communication they sent a reply, in which they express pity for the sufferers and condemned the conduct of the rioters (as they uniformly had done); but said that as compensation was an act not of justice but of generosity, they were unwilling to burden their constituents with the expense of it, until they had had an opportunity of consulting them; and therefore had postponed the subject to the next session. After an ineffectual attempt to bring them to a decision at that time, the governor prorogued them. In October he convened them again for the purpose of obtaining a definite answer to the recommendation. The House then framed a bill 'for granting compensation to the sufferers, and general pardon and indemnity to the offenders, in the late times.' This bill they ordered to be

published for the consideration of the several towns, and then requested a recess. The recess was granted; and in December following the act for pardon and compensation passed. But as if it were possible their opinions could yet be mistaken, they at the same time passed the following resolution.

'That this House in passing the bill for compensation &c. were influenced by a loyal and grateful regard to his majesty's most mild and gracious recommendation; by a deference to the opinion of the illustrious patrons of the colonies in Great Britain; and for the sake of internal peace and order, without regard to any interpretation of his majesty's recommendation into a requisition, precluding all debate and controversy; and a full persuation that the sufferers had no just claim or demand on the province; and that this compliance ought not hereafter to be drawn into a precedent.' p. 100.

This explanation of their motives was perfectly proper; but their delay in coming to a decision may perhaps appear useless. It ought, therefore, to be considered that many of the members were under express instructions from their constituents to vote against the compensation; and that at the same time the governor's language in his communications on the subject—he constantly speaking of the vote of Parliament as a requisition and urging a compliance with it as a necessary expiation of the sins of the province—was calculated to provoke resentment. They had, however, no ground for fearing that, in England at least, they would be thought to have humbled themselves too much. On the contrary, their having annexed to the bill a pardon of the offenders, was there viewed as an instance of colonial presumption; and upon that account the act was rejected by the king.

Two companies of artillery had been driven into the harbour of Boston by stress of weather, and were there lodged at the Castle. They had been supplied with fuel and candles by order of the governor and council; and the money to pay for these supplies drawn from the treasury of the province. The legislature met on the last of January 1767, and the House very soon sent a message to inquire what provision had been made for these troops, and by whom. The governor in reply sent them 'a copy of the minutes of council, by which provision was made *in pursuance of the late act*

of Parliament, commonly called the Mutiny Act. This justification was somewhat worse in the eyes of the House than the offence. The following is an extract from their answer.

'But, may it please your Excellency, it is still more grievous to us to find your Excellency making mention of an act of Parliament, in pursuance of which your Excellency and the council have created this expense to the province. One great grievance with regard to the Stamp Act was, that it deprived us of the advantage of a fundamental and most essential part of the British constitution, the unalienable right of freedom from all taxation, but such as we shall voluntarily consent to and grant. While we feel a sense of the worth and importance of this right, we cannot but express concern that an act of Parliament should yet be in being, which appears to us to be as real a grievance as was that which so justly alarmed this continent. Your Excellency and the council, by taking this step, have unwarrantably and unconstitutionally subjected the people of this province to an expense without giving this House an opportunity of passing their judgment upon it; and have also put it out of our power, by an act of our own, to testify the same cheerfulness which this assembly has always shown in granting to his majesty, of their free accord, such aids as his majesty's service has from time to time required.' p. 107.

The governor in reply contends that the provision made for the troops was authorized by the act of the province, by virtue of which the barracks at the Castle had been erected: that it was no more than what would have been right, if the act of Parliament had not been passed; and was in pursuance of that act only so far as the act coincided with the usage of the government of the province. We shall presently have occasion to see in what manner a subsequent and more palpable attempt to enforce the Mutiny Act was met.

The Revenue Act of 1767 was the next subject of much importance, that engaged the attention of the legislature. This act was a revival of the attempt to tax America. The distinction between internal and external taxes, which was attempted to be established by the friends of America in Parliament, was too unsound in theory and too unimportant in practice, to be long acquiesced in by men so well acquainted with their rights as the colonists had now become. This act, however, as it imposed no internal taxes, did not at first create that sensation throughout the continent which was pro-

duced by the Stamp Act. Massachusetts was, however, from her situation, more likely than most of the colonies to be affected by an act that in the first instance affected commerce. At the next session of the legislature after the news of the passing of the act was received, the most efficient measures were adopted for making their opinion known in England, and of rousing the attention of the other colonies to the nature of the subject. On the 12th of January, the House addressed a letter of instructions to their agent in London, which contained a most elaborate and able vindication of the rights of the colonists. This letter discovers, as indeed most of these documents do, a very familiar acquaintance with the principles of government, and of those of the British constitution; and it is one of the best written pieces in the book. The whole argument against taxing the colonies is clearly and forcibly stated; but after what we have already said and the extracts we have given upon this subject, it is hardly worth our while to attempt giving an abridgment of it. In this letter the House likewise speak of the appropriation which it was understood was to be made of the revenue thus unconstitutionally raised. In the first place it was to furnish a support to the governor and judges, in the colonies where it should be thought necessary. It had long been a subject of apprehension with the legislature, that they should be deprived of all check upon the governor, by his being rendered independent of the people for his support. 'This House,' say they, 'apprehends it would be grievous and of dangerous tendency, if the crown should not only appoint governors over the colonies, but allow them such stipends as it shall judge proper, at the expense of the people, and without their consent.' And although they could not have questioned the benefits of an independent judiciary, yet they observe—'If the judges of England have independent livings, it must be remembered that the tenure of their commission is during good behaviour, which is a safeguard to the people.' In the next place the revenue was to be 'applied by Parliament from time to time in defending and securing the colonies;' in other words, it was to be appropriated to the support of a standing army in the colonies. Against this the House remonstrate:—'As Englishmen, as well as British subjects, they have an aversion to an unnecessary standing army, which they look upon as dangerous to their civil liber-

ties; and considering the examples of ancient times, it seems a little surprizing that a mother state should trust large bodies of mercenary troops in her colonies, at so great a distance from her, lest in process of time, when the spirits of the people shall be depressed by the military power, another Cæsar should arise and usurp the authority of his master.' p. 130.

The House likewise sent letters, signed by their speaker, addressed to the secretaries of state, to the Marquis of Rockingham, the lords Camden and Chatham, and the lords commissioners of the treasury, which contained a similar statement of their rights and grievances; and solicited the assistance of these officers and noblemen in procuring them relief. These, together with a petition to the king, were the means adopted by the legislature for making their complaints known in England. At home they attempted to revive their plan adopted with regard to the Stamp Act, that of producing a union and cooperation of the colonies. Letters were sent in the name of the House to the several Houses of Representatives and Burgesses on the continent—informing them of the petition, instructions, and letters abovementioned, and recapitulating the grounds therein taken—'These,' they say, 'are the sentiments and proceedings of this House;' and conclude—'The House is fully satisfied, that your Assembly is too generous and liberal in sentiment to believe that this letter proceeds from an ambition of taking the lead, or dictating to the other assemblies. They freely submit their opinions to the judgment of others; and shall take it kind in your House to point out to them any thing further that may be thought necessary.' p. 136.

This third attempt of Massachusetts to unite the colonies in opposition to an act of Parliament excited the strongest indignation of the ministry. Instructions were sent to Governor Bernard, to require that the House should, under penalty of dissolution, rescind their vote, in consequence of which the circular had been prepared and sent. This requisition was communicated to the new legislature, which met on the last of May 1768. The House in their reply, after justifying entirely the spirit and language of the circular, observe, that the vote has already been executed, as the letters have been sent and many of them answered, and cannot be rescinded; 'but if, as most probable, by the word rescinding

be intended a passing a vote of this House, in direct and express disapprobation of the measure abovementioned, as "illegal, inflammatory, and tending to promote unjustifiable combination against his majesty's peace, crown, and dignity," we must take the liberty to testify and publickly to declare, that we take it to be the native, inherent, and indefeasible right of the subject, jointly or severally, to petition the king for a redress of grievances; provided always that the same be done in a decent, dutiful, and constitutional way, without tumult, disorder, or confusion.' They conclude as follows:

'We take this opportunity faithfully to represent to your Excellency, that the new revenue acts and measures, are not only disagreeable to, but in every view are deemed an insupportable burthen and grievance, with a very few exceptions, by all the freeholders and other inhabitants of this jurisdiction. And we beg leave, once for all, to assure your Excellency, that those of this opinion are of no "party or expiring faction." They have at all times been ready to devote their time and fortunes to his majesty's service. Of loyalty, this majority could as reasonably boast as any who may happen to enjoy your Excellency's smiles. Their reputation, rank, and fortune are at least equal to those who may have sometimes been considered as the only friends to good government; while some of the best blood in the colony, even in the two Houses of Assembly, lawfully convened, and duly acting, have been openly charged with the unpardonable crime of oppugnation against the royal authority. We have now only to inform your Excellency that this House have voted not to rescind, as required, the resolution of the last House; and that on a division on the question, there were ninety-two nays, and seventeen yeas. In all this we have been actuated by a conscientious, and finally, a clear and determined sense of duty to God, to our king, our country, and our latest posterity; and we most ardently wish and humbly pray, that in your future conduct, your Excellency may be influenced by the same principles.' p. 150.

On the day this message was sent, the governor prorogued the Assembly; and on the day following, dissolved it by proclamation. This was just after the election, and the province was thus left without a legislature for the whole political year.

Opposition was not likely to be checked by such a measure; on the contrary, it went on not the less systematically, and probably with more spirit, for this arbitrary dissolution of

the Assembly. We are obliged, however, to pass over many interesting incidents, and proceed to the time when another Assembly convened, which was on the last Wednesday of May 1769. Governments and communities have suffered as much from false pride, as individuals. Those who guided the destinies of Great Britain at that time might easily have seen, that the opposition in America had been conducted entirely upon principle; that it was guided by men whose characters were staked on their consistency and perseverance, and men to whom character must necessarily be dearer than life and all its possessions. Such an opposition, it ought to have been known, was not to be subdued by the same measures that would have been adopted to quell the fury of a London mob. Yet it is difficult to say what other alternative was offered the government, than a resort to force or a relinquishment of a good deal of what they firmly believed to be their legitimate authority. It is not very surprising, however unwise it undoubtedly was, that the former part of the alternative was preferred. In the latter part of 1768 and the beginning of 1769, troops had from time to time been arriving in Boston, which was uniformly considered the head quarters of rebellion and disaffection. As if to render this measure still more galling to the feelings of a proud and jealous people, part of these troops, instead of being stationed at the Castle in the harbour, were brought up to the town and quartered in State (then King's) street, where the building was situated, in which the meetings of the legislature were held. When the new assembly met, they found these troops with cannon pointed towards the door of the Court House, and occupying one of the public offices in the building as a guard room. The meaning of all this was not to be misunderstood; and the first thing the House did was to send a message to the governor, remonstrating, in the most resolute terms, against these circumstances, as an infraction of the rights of the people, and as utterly inconsistent with their dignity, and the freedom with which they ought to deliberate and determine. The governor informed them, he had no authority over the troops in the town. As this was the day of general election, upon which, by charter, the counsellors for the year ensuing were to be chosen, the House proceeded to this business: after having passed a resolve, protesting that they did so only from necessity, and that their conduct was not to be drawn into a

precedent, or considered as a relinquishment of their constitutional rights. This however was all they chose to do. Several messages passed between the House and Governor; the former asserting their determination not to proceed to business whilst troops were quartered in the town where they were convened; the latter insisting upon his want of authority to withdraw the troops. Nearly three weeks of the session had elapsed, and, although the House had continued to meet daily, no business had been transacted; when the governor informed them that although he had not the power to remove the troops from Boston, yet he could adjourn the legislature to any other town; and he accordingly did adjourn them to Cambridge. This compromise rather served to heighten the indignation of the House; for, as they observe, 'instead of the least abatement of this military parade, the General Assembly has been made to give way to an armed force, as the only means in the power of the governor to remove the difficulty justly complained of.' What made the whole transaction still more insulting was, that on the very night after the adjournment, the cannon were withdrawn from the neighbourhood of the Court House. But however the House resented this removal, they now found themselves at liberty to proceed to business, consistently with their determination at the beginning of the session; and owing to the early dissolution of the Assembly of the last year, the business was so much in arrears as to render farther neglect extremely inconvenient. In their attention to the internal affairs of the province, it may well be presumed, they did not entirely overlook the more interesting subjects connected with the dispute with the mother country. On the 27th of June, the House voted a petition to the King, for the removal of Sir Francis Bernard from the government of the province. On the day following, the governor, by a message, which contained no reference to the above-mentioned petition, informed the House that the King had required him to repair to England, for the purpose of laying before him the state of the province. But as he was to attend the King as Governor of the province, he informed them there was the same necessity for a grant of the usual salary, as heretofore; and desired that according to the 49th instruction of his Majesty, such grant might precede the other business of the session. The House thought proper to put a different construction on the 49th instruction of his Majesty; and

could see no reason for making such grant. The House likewise entered into several warm resolutions, 'enlarging,' to use the words of Chief Justice Marshall, 'the catalogue of grievances, and expressed in terms of infinitely greater exasperation, than had heretofore appeared in the official acts of any legislature on the continent.' On the 6th of July, the governor communicated a statement of the expenditures incurred by quartering the royal troops in Boston, with a request from General Gage, that funds might be provided for discharging the same, agreeably to the provisions of the Mutiny Act. The House had frequently found means of misunderstanding the royal instructions; the Stamp Act had been evaded by a total disuse of the stamped paper: but there was now no room for misunderstanding or evasion; the terms of the Mutiny Act were too explicit; and it was now to be decided whether they would openly and avowedly refuse compliance with an act of Parliament, or by one vote give up their darling principle respecting taxation, and at the same time make provision for the very troops, who had been sent over to awe and even to coerce them into a relinquishment of their rights. It could hardly be doubted which side of the alternative they would embrace. After a most indignant denunciation of the act in question, concerning which they observe that 'of all the new regulations, the Stamp Act not excepted, this is the most excessively unreasonable,' they conclude:

'Your Excellency must, therefore, excuse us, in this express declaration, that as we cannot, consistently with our honour, or interest, and much less with the duty we owe our constituents, so we shall never make provision for the purposes in your several messages mentioned.' p. 187.

Thus ended the attempt to enforce the Mutiny Act in Massachusetts. Upon receiving the decision of the House, the governor prorogued them; upon which occasion he delivered his last speech to them, and takes his final leave in the following words, referring to their late decision.

'To his Majesty, therefore, and if he pleases, to his Parliament, must be referred your invasion of the rights of the imperial sovereignty. By your own acts you will be judged. You need not be apprehensive of any misrepresentations, as it is not in the power of your enemies, if you have any, to add to your publications; they are plain and explicit, and need no comment.

'It is my duty, and I shall do it with regret, to transmit to the king, true copies of your proceedings; and that his Majesty may have an opportunity to signify his pleasure thereon, before you meet again, I think it necessary to prorogue this General Court immediately, to the usual time for the winter session.' p. 188.

Upon the departure of Sir Francis Bernard, the government devolved upon Lieutenant Governor Hutchinson, a man in every respect better qualified for it. The fashion has come down to us from the last generation of speaking of Hutchinson only with reproach; even his merit as a writer and historian seems not to be fully allowed, and we can account for it upon no other grounds than that we are still insensibly influenced, by the odium we have been accustomed to hear attached to his political conduct. That great faults may justly be charged upon him, we have no doubt; his grasping, selfish ambition, his inordinate lust of office and of personal and family aggrandizement, we shall neither attempt to palliate nor deny. Yet, on the other hand, we say without hesitation, he was in point of abilities one of the foremost men whom New England or this country has produced. A native of the province and educated here, he was attached to its institutions and habits, and had a minute acquaintance with its history and internal concerns. Whilst a member of the House of Representatives, he had in a time of peculiar embarrassment been of the greatest service to the province, and acquired an extensive influence; as Chief Justice he was upright, impartial and popular; but when, as Lieut. Governor and as Governor, he lent the aid of his great abilities to the cause of the ministry, his popularity and influence were lost and his name was execrated. Had Hutchinson been more fortunate, perhaps we should say more disinterested, in his choice of sides in politics, we know of but few names in our history, which would at the present day have been pronounced with greater veneration. But at the time the disputes commenced with the mother country and the parties were formed upon the subject of those disputes, Hutchinson was already a man of distinction, in favour with the ministry, and justly calculating upon higher preferment from them. Therefore, although he seems at first not to have approved the ministerial plan of taxing the colonies, yet when the dispute came to be one about the extent of royal prerogative and of the power of parliament, his habits

and what he probably considered his interest, naturally drew him to the side of the crown, and his talents placed him at the head of the royal party.

Governor Bernard had prorogued the General Court to the 10th of January 1770. In consequence, however, of instructions, the Lieut. Governor had farther prorogued them to the 15th of March following, then to meet at Cambridge instead of Boston, which latter place had been the seat of government from the first settlement of the province. The inhabitants of Boston had rendered themselves peculiarly obnoxious to the friends of arbitrary government; and it was supposed (although in fact there was no difference between the sentiments of the town and country) the spirit which prevailed amongst them had an influence on the legislature and encouraged the latter in their opposition. In order to escape this contaminating influence of the metropolis, the royal or ministerial sagacity devised the plan of removing the legislature to the college chapel, in Cambridge, a distance of nearly three miles, and where at the time there was so small a settlement that most of the members were obliged to board in Boston. The House had no sooner met than they sent a remonstrance to the Lieut. Governor against the reason assigned by him, as the only one he had for proroguing the Assembly, viz. 'that he had received instructions to meet the said assembly at Cambridge;' which the House pronounce 'an infraction of their essential rights, as men and citizens, as well as those derived to them by the British constitution, and the charter of the colony;' and therefore desired him to remove the legislature to its ancient place, the court house in Boston. This request the Lieut. Governor of course refused, and expressed his hope that a compliance would not be expected from him, 'because,' he observes, 'I never shall take exception to the exercise of any powers which are constitutionally in the House, although such powers should be exercised in consequence of *instructions* given to the members of the House by their constituents.' Several messages were exchanged on the subject, and after more than a week of the session had been thus consumed, the House determined to proceed to business, after having resolved, that their so doing was not to be considered, at any time hereafter as a renunciation of their

claim to the legal right of sitting in General Assembly at the ancient place, the court house in Boston.

On the 7th of April the Lieut. Governor communicated an account of a riot which had taken place in the town of Glou-cester, to the end, 'that if any act or order of the whole legislature should be judged necessary for strengthening or encouraging the executive powers of government, there might be an opportunity for it.' We give the following extract from the answer of the House, as presenting their opinions and feelings respecting the state of the province at the time.

'We shall not enlarge on the multiplied outrages committed by this unlawful assembly [*the military*] in frequently assaulting his Majesty's peaceable and loyal subjects; in beating and wounding the magistrate, when in the execution of his office; in rescuing prisoners out of the hands of justice; and finally, in perpetrating the most horrid slaughter of a number of inhabitants,* but a few days before the sitting of this assembly, which your Honor must undoubtedly have heard of. But not the least notice of these outrageous offences has been taken; nor can we find the most distant hint of the late inhuman and barbarous action, either in your speech at the opening of the session, or even in this message to both Houses. The violences so frequently committed, added to the most rigorous and oppressive prosecutions, carried on by the crown against the subjects, grounded upon unconstitutional acts, and in the Court of Admiralty, uncontrolled by the Courts of Common Law, have been justly alarming to the people. The disorder, which your Honor so earnestly recommends to the consideration of the Assembly, very probably took its rise from such provocations. The use, therefore, which we shall make of the information in your message, shall be to inquire into the grounds of the people's uneasiness, and to seek a radical redress of their grievances." p. 205.

The next assembly met on the last Wednesday of May, and chose their counsellors; and after exchanging several messages with the governor on the subject of the removal of the court from Boston, they came to a resolution that it was inexpedient to proceed to business, whilst they were thus constrained to hold their sessions in any other than the ancient and accustomed place. The session continued until the 25th of June, during which time no business was done or vote passed, excepting such as related to this dispute about the

* 'Boston Massacre,' so called, March 5, 1770.

place of meeting, when the Lieut. Governor, seeing no prospect of their receding from their resolution, prorogued them to the 25th of July. At that time they again met at Cambridge; when the controversy was renewed, and continued until the 3d of August, at which time, as the House still continued to decline all business, the Governor once more prorogued them to the 20th of September. This dispute was conducted with great zeal and ingenuity by both sides. The papers relating to it occupy a considerable space in this volume; but we think they were properly inserted, both as showing the spirit and feelings of the time, and as they contain a great deal of incidental discussion of principles which were then of great importance. The Lieut. Governor insisted upon his right of calling the assembly together at any place he saw fit; and if he chose to call them together at a place pointed out to him by the royal instructions, the House had no right to object. The House contended, that by the form of the writ for convening the assembly, as given in an act of 10 W. 3, and which contained the words 'the court house in Boston,' the seat of government was by law fixed in that town; and that the Governor, by his conduct, gave to instructions a greater force than to law. This led to much acute argument respecting the construction of the act of W. 3; the force of royal instructions; the nature and extent of the prerogative, &c. which we have not time to recapitulate, but which will well repay a perusal. What gave to this dispute its great interest was, that the House viewed the removal as one measure of a system of worrying or coercing them into a compliance with demands, which they were determined to resist.

In September the Assembly again convened. They found, by communications from England, that the conduct and situation of the province was likely to be submitted to the consideration of Parliament at the approaching session; and they had every reason to apprehend that the inquiry would result in some diminution of their chartered privileges. It was highly important therefore that they should prepare instructions to their agent. Another step too had lately been taken in the advances of the British government, in the dismissal of the provincial troops from Castle William, and garrisoning the fortress with a detachment of the royal army. Massachusetts saw herself, in short, exposed to a systematic

attempt to reduce her to the lowest state of dependence; and what rendered her forebodings still more gloomy was, that in the Middle and Southern colonies the irritation against the mother country seemed, at this time, to have in a great degree subsided. Besides all which, owing to the repeated prorogations and dissolutions of the assembly during the two last years, and their own refusal to attend to business, the internal business of the province had accumulated to such a degree, that the consideration of it could be no longer postponed without the greatest inconvenience. The House, therefore, after another ineffectual attempt to obtain a removal of the seat of government to Boston, found themselves under the necessity of proceeding to business, which they did, having first publickly assigned their reasons for so doing and protested against their conduct being drawn into a precedent. The Lieut. Governor was, by law, the commander in chief of Castle William; and the House warmly remonstrated against his conduct in delivering the keys of the fortress to the commander of the regular troops, and accused him of having parted with his command. The Governor replied, and a controversy of some length ensued; but remonstrance and argument were the only weapons the House could then use, and these, whatever effect they might have had in preparing the minds of the people for more efficient measures, were not likely to produce an immediate redress of the grievance. Another controversy arose at the present session between the Lieut. Governor and the House in consequence of the instruction from the king, that in passing of all laws, the style of enacting should be—'by the Governor, Council and House of Representatives,'—omitting the words 'in General Court assembled,' which words had formerly made part of the style of enacting, but for the last thirty years had been disused and were now sought to be restored. This, although merely a matter of form, was another foolish attempt to interfere with the proceedings of a jealous legislature, and was highly resented by them. The session was protracted for nearly two months, the greater part of which time, if one were to conjecture from the number of papers in this volume, might be supposed to have been consumed in exchanging messages with the Lieut. Governor. It seems, however, from an observation of Hutchinson, in his speech at the close of the session, that more business had been

transacted than he remembered to have been done in the same space of time, since he had been engaged in public affairs.

Hutchinson was shortly after appointed governor. We have already given enough of the contents of this book, to present our reader with an idea of the constancy and inflexibility, and at the same time the regard to principle, with which the legislature maintained their rights through the long controversy which led to the war of the revolution. This alone, we repeat, and not to write a history of Massachusetts, has been our object. Our account of the remaining portion of the volume will therefore be very brief. The subject of the removal of the Assembly from Boston still continued to afford matter of controversy. The House, at the commencement of every session, constantly remonstrated against it. On the 8th of April 1772, the governor informed them he was authorized to remove them to Boston, provided they requested it as matter of convenience only, and desisted from the claim as matter of right. With this condition the House did not choose to comply. At the ensuing session in May, the House sent a message couched in guarded language, complaining of the holding of the court at Cambridge, as a grievance, but neither expressly denying the legality of the measure, nor yet saying any thing, from which it could be inferred that they had renounced their opinions formerly expressed. The governor, not content with this, requested an explanation of some expressions in their message. The House thought any explanation unnecessary, and the removal was denied. About a fortnight afterwards the governor saw fit of his own accord to restore the government to its ancient seat. The plan which had been so long apprehended of making the governor independent of the province, as to his salary, was in 1772 carried into effect; and shortly after the same measure was adopted with regard to the judges. It is hardly necessary for us to say, that these measures did not pass without being remonstrated against by the House, and defended by the governor.

There seems to us something in Hutchinson's manner of conducting his controversies with the legislature, which must rather have had a tendency to forward the revolution; though at the time it was no doubt viewed in a very different light. He was intimately acquainted with the history and constitution of the province; he was cool, circumspect, and acute,

and apparently fond of victory in the argument. He was always careful to keep the theory of the constitution in view, which was founded on the idea that the colonies were dependent states, subordinate parts of the British Empire. The colonies had not only acknowledged, but had boasted of their connexion with Great Britain; they had never denied their dependence on the mother country, though the nature and extent of that dependence had never been accurately defined. Now it is scarcely to be denied, that the legislature of Massachusetts frequently asserted principles, which, if thoroughly examined, would have been found inconsistent with dependence of any sort. This was never overlooked by Hutchinson; he was not a man to stop short in his argument: he was not for confining the discussion to the individual case from which it arose, but was for tracing the principle through all its consequences: above all he was ever careful to keep in view the difference in the question, whether the power or right existed, and the one, whether it had been judiciously exercised in the particular case. Thus the House were kept constantly exercised in a discussion of the fundamental principles of their constitution. If from these principles could be drawn a justification of the measures of which they were complaining; we may easily suppose that, instead of being reconciled to their grievances, the people would be merely led to question the excellencies of a constitution, which exposed them to such grievances, and to inquire into their obligation longer to submit to it.

Thus, in the argument about the force of the *royal instructions*, which arose in consequence of the removal of the Assembly from Boston, whilst the House distinguished between prerogative and the abuse of prerogative, and asserted that it was gross abuse to remove the General Court from its ordinary seat of legislation, for the purpose of wearying them into a subserviency to the views of the crown, they undoubtedly had the better of the argument. But when they insisted, 'that by the royal grant in the charter, the governor, who was but the representative, the deputy of the king, has the sole power of adjourning, proroguing, and dissolving the General Court,' and thence inferred that the king had divested himself of the power of judging upon the subject; when, too, they declared that the governor was under no obligation to hold the court at Cambridge, let his instructions be ever

so peremptory, 'inasmuch as it was inconvenient and injurious to the province,' 'and prerogative extends to do no injury,' Hutchinson, in our opinion, very conclusively answered, 'what pretence can there be to distinguish this from any other power, or what exercise of power can there be, pursuant to the charter, by force of an instruction, if this is not? If it be said, that in other instances also of power given to the governor to use, according to his discretion, the king has parted with his prerogative, *the reserve made by the crown*, to give instructions to the governor, can, in no case whatever, have any effect.' (p. 318) 'If it be intended, that when the governor, by his Majesty's order, convenes the Assembly at a time or place, which appears to them inconvenient or improper, they have, therefore, a right to refuse to appear, or refuse to proceed to business, or that they have a right to continue to sit after the governor has prorogued or dissolved the Assembly, in their judgment unreasonably or unnecessarily, will not this imply a contradiction? Is it not allowing a full power to do a thing, and at the same time admitting a power to defeat it, and prevent the full power from having any effect?' (p. 319.)

And so in the question about the salary of the governor and judges; men so intimately acquainted with the science of government, as were those, by whom these disputes were conducted on the behalf of the people, could not have been blind to the salutary effects of an independent executive and judiciary. And these very men, or many of them, when they assembled seven years afterwards, to form a constitution for the commonwealth of Massachusetts, when they came to make provision for a governor, who was to be chosen by the people, and for judges who were to be appointed by a popular executive, took care to make it a clause of the constitution, that '*permanent* and honourable salaries' for those officers should be established 'by standing laws.' Yet at the period of which we are writing, they contended for the propriety of keeping both the executive and judicial branches of the government dependent on the annual grants of the legislative. The legislature was chosen by the people, the governor and judges were appointed by the crown; and they thought it better to risk the operation of a bad principle in politics, rather than incur the greater evil of increasing their dependence on Great Britain. And they were right in this opinion.

But then in their argument they talked about a government of checks and balances, and of the necessity of one branch being a check upon the other; and Hutchinson told them: 'The mutual check, which one branch of the legislature ought to have upon the other, consists in the necessity of a concurrence of all the branches, in order to a valid act, and when any one branch withholds this concurrence, it is properly a check upon the other two. So far as this may be said to be a dependence, I agree with you, but this is not sufficient for your purpose, for the same check will remain in each branch when the salary of the governor is paid by the crown, as when it is paid by the province. Now this check does not affect that freedom and independence in each branch which is the glory of the English constitution, and which will not admit that any one should be compelled by the others to any act against its judgment.' (p. 334) And after a full illustration of these ideas, he observes:

'I am sensible that when all other exceptions to this representation of your constitution are taken away, you will ask what security have we against the oppression of a governor? The answer is obvious. The law and the constitution are your security; if he depart from them, there is a power superior to him, to which he is accountable for his mal-administration. This is all the redress which can consist with the nature of a subordinate government.' p. 335.

And it '*is* all the redress which can consist with the nature of a subordinate government.' No doubt, arguments like the above had their secret and silent effect; but it was not the effect which Hutchinson calculated upon. To convince men, situated as the Americans then were, and animated by their spirit, that such was the only constitutional mode of redress, was not the way to induce them to sit down quietly under their evils. Oppressed from some quarter they knew themselves to be; the mode of redress pointed out, they had tried till their patience was exhausted, but had found no relief; they had appealed to 'superior power,' they had insisted on 'the constitution and the law,' but their appeals and their arguments had been treated with contumely, or made the pretext for new aggression. The only effect then of such arguments must have been to lead men to inquire, if there were not something in the nature of a subordinate government, to which the feelings of freemen could not and ought not to be recon-

ciled, and something in 'the law and the constitution' radically defective.

Hutchinson's disposition to push the House up to a full avowal or renunciation of their principles led him into a dispute upon another subject of still more importance, and the result of which ought to have convinced him of the impolicy of courting, under existing circumstances, too minute an investigation of the fundamental principles of the constitution. 'The degree of authority,' says Chief Justice Marshall, 'which might rightfully be exercised by the mother country over her colonies had never been accurately defined. In Britain it had always been asserted, that Parliament possessed the power of binding them in all cases whatsoever. In America, at different times and in different colonies, various opinions had been entertained on this subject.' In New England, during the earlier periods of its history, it had been a prevailing and favourite opinion, that the Americans were subjects of the British crown, but not of the nation. When the colonies became of sufficient importance to attract the notice of the parent state, it was found impracticable effectually to maintain this position; and it seems to have been silently and gradually abandoned. Still, however, public opinion on this subject was extremely loose and unsettled; and although it seems to have been generally supposed that Parliament possessed some sort of power over the colonies, yet the attempt to exercise it in any particular case was generally viewed with great jealousy. In practice, the operation of acts of Parliament had sometimes been acquiesced in; sometimes the legislature of Massachusetts had by their own acts adopted those acts, by which the appearance of their being enforced by the mere power of Parliament was saved; more frequently such laws as were not agreeable had been evaded or misunderstood; whilst all such as related to taxation had uniformly been pronounced unconstitutional, and in the case of the Mutiny Act, as we have seen, obedience had been flatly refused. In their addresses they had frequently spoken incidentally of the Parliament as 'the supreme legislative power over the whole empire,' of 'the *superintending power* of that high court over all his Majesty's subjects in the empire,' &c. taking care at the same time to add, that the exercise of the supreme legislative power was always to be limited and controlled by the constitution; and likewise

to insist upon the impracticability of the colonists being represented in Parliament; in consequence of which impracticability, they had been allowed legislatures, which were to be 'as perfectly free as could consist with a subordination to the supreme legislative of the whole empire.' But how much freedom this would have left them; or what were the precise boundaries of the powers of the colonial assemblies, and of the supreme legislature, no one had undertaken to point out. Indeed this seems hitherto to have been viewed by the defenders of American rights as a forbidden subject. But the controversy had now continued so long in Massachusetts, and all reserve and delicacy had been found so ineffectual, that the minds of the people were pretty well prepared for a contemplation of the whole subject. The supremacy of Parliament, it seems, had lately been denied by a town meeting in Boston, and Hutchinson saw fit to avail himself of this circumstance, to meet the legislature at the next session, which was in January 1773, with an elaborate and formal argument upon the subject. This was in a manner challenging the Assembly to an expression of their opinion upon this delicate question. The two Houses returned separate answers, differing very much in their general tone. The council preserved the old ground, declining to prescribe the precise limits of the power of Parliament, but maintaining that it must necessarily be limited by the principles of the constitution, and by those principles it could not extend to the levying of taxes upon those who did not enjoy the right of representation. But not so with the House: they boldly meet the governor in all his positions, and, after a most full and able discussion of the subject, observe:

'Your Excellency tells us "you know of no line that can be drawn between the supreme authority of Parliament and the total independence of the colonies." If there be no such line, the consequence is, either that the colonies are the vassals of the Parliament, or that they are totally independent. As it cannot be supposed to have been the intention of the parties in the compact, that we should be reduced to a state of vassalage, the conclusion is, that we were thus independent. "It is impossible," your Excellency says, "that there should be two independent legislatures in one and the same state." May we not then further conclude, that it was their sense, that the colonies were, by their charters, made distinct states from the mother country?

Your Excellency adds, "for although there may be but one head, the king, yet the two legislative bodies will make two governments as distinct as the kingdoms of England and Scotland before the union." Very true, may it please your Excellency; and if they interfere not with each other, what hinders, but that being united in one head and common sovereign, they may live happily in that connexion, and mutually support and protect each other?' p. 36.

This, we believe, was the most full and explicit denial of the power of Parliament which had then been made by any legislature on the continent. The governor, who probably had not anticipated that the House would have assumed this bold ground, felt obliged to send another message in support of his positions, which called forth a long answer from the House, breathing the same spirit and principles with the first. These four messages, which occupy about fifty pages of this volume, do infinite honor to both parties, by the learning, the ingenuity, and dignity, with which they are written. Those on the behalf of the House we have good authority for attributing to that venerable statesman in our vicinity, who yet lives to witness the successful operation of those principles, which, in his more active days, he did so much to establish and defend.

Having followed the House of Representatives to this declaration, it occurs to us—what our readers no doubt have long been thinking of—that it is time for us to stop. Something we had intended to say of the remaining documents in this volume and of the subjects they relate to—of the establishment of the state committees of correspondence—of the famous letters of Hutchinson and Oliver—of Gage's insolent conduct in meeting the legislature—of the removal of the legislature to Salem, in pursuance of the Boston Port Bill—of the final dissolution of the provincial legislature, and of the address of the Massachusetts Congress to the people, with which the volume closes. But we find it impossible to resist the temptation of making extracts, or to avoid historical statements with which our readers are or ought to be already acquainted.

We conclude by earnestly recommending this book to our readers' attention. We are the more urgent on this point, because we have just been astonished and mortified by seeing the publishers of it announcing in a newspaper conducted by them, that they have sustained a loss by the publication, of

between seven and eight hundred dollars. We feel no other interest in the success of these publishers, than we do in that of every man who undertakes to furnish the public with good books. But if we could believe that the fact, above stated, was at all indicative of the general spirit of literary patronage amongst us, it would afford us much more mortification than all the sneers and the abuse of the state of our literature, which the most industrious compiler could bring together from the whole circle of English travellers and reviewers. It would be in vain to say that Americans ought to make books; it would be in vain to say that the documents respecting our history ought to be collected and preserved, if many such facts were permitted to disgrace us. But we know that this is not the case; and we can account for this instance of unmerited neglect only by the presumption that the nature of the book has not been generally understood. One suspicion may perhaps be excited upon reading these papers, which may not be altogether gratifying to our vanity; it is that the advances of the present generation in knowledge and letters have not been quite so large as we are apt to imagine. We find in this volume not only the marks of a bold spirit and of strong natural talent, but of the most extensive reading, and specimens of pure and elegant composition. Indeed we are not absolutely certain that from the journals of Congress, for the last ten years, could be selected a volume containing so much fine writing. But whether it be owing to the style or the subjects of these papers, or to both, we are persuaded that no man who ever derives pleasure from books, will be able to read a few of them without going through with the whole, and then wishing that there were more.

ART. XVI.—*Memoirs of Richard Lovell Edgeworth, begun by himself and concluded by his daughter Maria Edgeworth.* London, 2 vols. 8vo. 1820.

THE ordinary and easiest kind of biography contents itself with relating the principal incidents of a life, with the more peculiar circumstances which accompany them; sometimes venturing to guess at the motives of the man when they happen to lie pretty near the surface, and now and then pre-

senting the features of his moral or intellectual character which stand forth most prominently. This sort of biography is entertaining enough, and is not without its use; histories of men, who have made themselves eminent, if they are but sufficiently minute and circumstantial, must do good; not so much by direct instruction how to act in particular cases, as by their general influence upon our habits of thought and feeling.

All men are not to be required or enabled to possess the force of mind or character, which gives to the few supremacy over the many; but minute, matter of fact biographies of men remarkable for goodness or greatness, do great good in bringing us into close contact with beings of greater strength or higher elevation than ourselves, because the imitative propensity and faculty of our nature is constantly at work in assimilating our characters to those with which we have the most frequent intercourse and the closest intimacy. If they, with whom we are most conversant, have stood in the upper places of society, and have given there the most striking proofs and examples of strong minds and good hearts, we naturally carry into the humbler concerns and interests of life something of the same feeling, and act there with more energy and disinterestedness. Common life, made up of common feelings and common events, must be the lot of most of us, and we shall probably go to our graves without finding occasion or need of such entire self-abandonment, thorough devotion to good purposes, and energy in conquering difficulties or resisting oppression, as we may find recorded in history; but if we dwell upon such examples fondly and frequently, it is to be expected that they will strengthen and liberalize our characters, although we cannot fill with our generosity and firmness so wide spheres of action or of fame.

But there is another kind of biography,—the history of the internal man, and this is the most useful and the most rare. It tells not merely the sayings and doings of him whose life it is relating, but his thoughts, and feelings, and imaginations; it teaches not only his actions, and the motives which led to those actions, but the state of mind and feeling which gave efficacy to the motives, and paints at large and to the very life, the thousand thoughts, and feelings, and propensities which make up the heart and the man. The

study of this kind of biography is indeed useful, for it tells man something of his own nature, and, in some degree, does the work of that wearying, wasting experience, whose lessons we cannot learn thoroughly until we pay for them, the ardent and credulous hope, the confiding affections of youth, all its aspirations after impossible excellence, and all its longings after impossible happiness.

Biography of this sort must necessarily be rare; few men undertake to write their own lives, and of these few, but a small proportion have acuteness and discrimination to analyze thoughts and motives, and pourtray character distinctly, and a still smaller part have enough of the ambition which longs for notoriety, careless of what sort it be, to be willing to lay open to the world the deepest and darkest nooks of their own hearts, however ugly and loathsome may be the things which dwell therein.

Johnson said somewhere, there was no man whose life would not be amusing and instructive, if it were exactly and fairly related. What an inestimable gift would he have made mankind, if he had left them a history of his own mind, a fair picture of his own heart; with what absorbing interest and wonder should we of ordinary minds and common place characters have looked upon the growth and workings of his giant intellect, and the morbid, convulsive force of his passions and his fears. Rousseau and St. Augustine have been perhaps the only men who have honestly endeavoured to tell the world what they were, with knowledge enough of human nature to fit them for the task. Of these men, the first was a madman of a peculiar kind; believing himself an object of terror and hatred to the mighty ones of the earth, and of deep interest to all mankind, he knew every thing he wrote was read with avidity, and thought every thing he did became at once a matter of public curiosity. But his Confessions were written principally, because he looked upon himself as elevated above the rest of mankind by a universal superiority, by a greater capacity, not only for moral and intellectual excellence, but for vice and folly; by an energy, which, in whatever direction it moved, went farther than common humanity could go; and he thought himself alike approving his supremacy, in his highest intellectual efforts, in his spasms of zealous and disinterested affection, and in the indulgence of propensities, which degraded him below the reptiles which crawl for

a day, and die for ever. No one, whose heart is not hardened into rock nor polluted to its very core, can read his book without a shudder. The vice, the fiendishness, he describes with an ease and freedom that is almost exultation, is quite beyond the guilt or the conception of ordinary villains. As to St. Augustine's Confessions, it is difficult to tell whether he was instigated to make them by the vanity of telling the world how great he had been, even in vice, or as he himself says, by the wish of shewing forth to the glory of God, how great a saint he had become from how great a sinner.

The life of Mr. Edgeworth belongs exclusively to neither class of biography. The first volume was written by himself at the request of his children; the second by Miss Edgeworth. His share of the work is characterized by an openness which seems the result of a wish to state all the facts relative to the development of his mind and the progress of his opinions, which could throw any light upon the best means of accelerating and directing the growth of the human intellect, to which difficult and obscure subject he had devoted much time and labour. He however does not succeed in doing all the good he intends; he does not seem particularly gifted with the rare talent of discriminating character, and besides, his life was a various one, and in the course of it he became acquainted with many curious and distinguished persons; and he cannot help giving some account of their characters, and anecdotes of all sorts, by way of illustrating their mode of thinking, speaking, and acting. As he luckily tells stories very well, this does not lessen at all the entertainment his book is calculated to afford, however it may affect its usefulness. The volume which his daughter wrote discovers, like all her works, exquisite tact in judging of character and motive, and uncommon power of pourtraying it strongly and distinctly. Her love of her father naturally colours her account of him somewhat, but upon the whole, she is sufficiently candid and impartial, and so far as a thorough acquaintance with his character was necessary to the accomplishment of her task she was abundantly qualified. During a long life she had been his best and most intimate friend: at once the principal object of his care, and the most effective assistant in his labours; few have had such opportunities of judging another's character as she enjoyed with regard to her father, and few have so much ability to improve such opportunities.

Mr. Edgeworth seems to have had an active and versatile, perhaps an acute mind, but not such commanding superiority of intellect as would rank him among the great men of his day. His character was well adapted to his situation, and both were calculated to give him as much happiness as either or both can give. At the head of a family sufficiently high in rank to give him access to what society he chose, he enjoyed in this respect the advantages of high birth without being elevated above the reach of the interests and pleasures which dwell in the middle ranks and accompany the common pursuits of life. His mind was sufficiently strong to save him from the depressing consciousness of inferiority, to enable him to attain some eminence, and exert considerable influence in the limited circle to which he confined himself, and to labour successfully and usefully in the vocations to which circumstances called him; but he was not urged by the strength and extent of its powers to aspire after intellectual supremacy, to climb to the region of perpetual frost and barrenness, where 'fame's proud temple' stands. His feelings were in the same happy medium as his mind and his circumstances. Of a gentle, affectionate, and confiding temper, he was loved well by his friends and loved them enough to interest himself in all that concerned them, but he had not the ardent, enthusiastic temperament, he did not feel the craving need of strong affection which are apt to waste one's life in hopes and wishes that cannot be answered. There was a great deal of spring and elasticity of character about him; he was not to be withstood by slight opposition or turned from his course by surmountable obstacles. Whatever he attempted he generally persevered in, to its thorough accomplishment, and quite to the end of his long life he was always intent upon some object of more or less public importance; the days of his life were many and they were well used; he never forfeited or lost the affection of those whom friendship or affinity made most dear to him; he suffered not often nor much from the inevitable evils of life, and upon the whole seems to have enjoyed a greater share of happiness than falls to the lot of most men.

His family went to Ireland in the reign of queen Elizabeth, about 1583, and we have an account of his genealogy from that day to the present with quite enough of detail; not too much, however, as it happens to be very amusing.

In the Irish rebellion of 1642 the family came very near being extinguished. Captain Edgeworth, its head, was engaged in some dangerous military duty at a distance from his castle, and the rebels took the opportunity to set fire to it at night, and to drag out his lady literally naked; she, however, found a furze bush which served her for a hiding-place until the rebels dispersed. The infant son and heir was taken from his cradle, and a rebel, holding him by the leg, was looking for some convenient corner of the castle to dash his brains out, when an Irish servant claimed the right of killing the young heretic himself as one of the family, and swore that he would plunge him up to the throat in a bog-hole, where the crows might have a chance to pick his eyes out,—on the ground that a sudden death was too good for him. He accordingly seized the child, and ran off with him to a neighbouring bog, and thrust him into the mud; but when the rebels had retired, took him up and hid him so skilfully in a pannier with eggs and chickens that he carried him quite through the midst of the rebel camp to Dublin. Things went on then in a common sort of a way for one or two generations to a certain captain John Edgeworth, who married somebody that died after a while and left him a young widower.

'Sometime after he was left a widower, he determined to return to reside in Ireland. On his way thither, he stopped a day at Chester, it being Christmas-day. He went to the Cathedral, and there he was struck with the sight of a lady, who had a full blown rose in her bosom. This lady was Mrs. Bridgman, widow of Mr. Edward Bridgman, brother to Sir Orlando Bridgman, the Lord Keeper. As she was coming out of church, the rose fell at Captain Edgeworth's feet. The lady was handsome—so was the captain—he took up the rose and presented it with so much grace to Mrs. Bridgman, that, in consequence, they became acquainted, and were soon after married.' vol. i. pp. 9, 10.

They immediately came over to his Irish estate. The husband had a son by his first wife, and the wife a daughter by her first husband; the young folks soon contrived to fall in love with each other without asking or at least without getting permission of the parents, who, for some reason which does not appear, were opposed to the match, and by way of evading the English penal statutes against the run-

ning away with an heiress, it was agreed that the lady should take her lover to church behind her upon horse-back and thus should run away with him, and by this means was their marriage effected. Their first son, Francis, was born before their joint ages amounted to thirty one years.

Both of the parties had fortunes, and both were utterly ignorant how to take care of them. They had occasion to go to England soon after their marriage, and to procure the necessary money mortgaged an estate; they put the proceeds into an open stocking which was kept at the head of their bed, and both parties had free access to it; of course its contents soon began to be very low. At another time Capt. E. sold a house-lot in Dublin to purchase a high-crowned hat and feathers, which was then at the top of the mode. He lived in high company in London and was much at court; upon some occasion king Charles insisted upon knighting him, and paid such gallant attention to Lady Edgeworth upon her presentation, that she thought proper to intimate to her husband that she had no inclination to receive the same sort of honour a second time; nor did she ever appear at court again, though in the bloom of youth and beauty. This was an instance of strength of mind hardly reconcileable to the improvident temper she had shewn at setting out in life, but there was in her character a singular mixture of strength and weakness. Courageous beyond the habits of her sex in real danger, she was yet exceedingly superstitious, and easily alarmed by any thing which seemed like supernatural presence or agency. Of her courage Mr. Edgeworth gives a singular instance.

'While she was living at Lissard, she was, on some sudden alarm, obliged to go at night to a garret at the top of the house, for some gunpowder, which was kept there in a barrel. She was followed up stairs by an ignorant servant girl, who carried a bit of candle without a candlestick, between her fingers. When Lady Edgeworth had taken what gunpowder she wanted, had locked the door, and was half way down stairs again, she observed, that the girl had not her candle, and asked what she had done with it; the girl recollected and answered, that she had left it "*stuck in the barrel of black salt.*" Lady Edgeworth bid her stand still, and instantly returned by herself to the room where the gunpowder was; found the candle as the girl had described—put her hand carefully underneath it—carried it safely out, and when

she got to the bottom of the stairs, dropped on her knees, and thanked God for their deliverance.' vol. i. pp. 13, 14.

Colonel Edgeworth, Sir John's son and Mr. Edgeworth's grandfather, was a great gamester, and sacrificed to this destructive passion much of his property. He left his affairs in such disorder that his son, at his father's death, eight years old, must have lost his whole property but for the kindness and care of Mr. Pakenham, his guardian, by whose advice, at eighteen, he entered at the Temple and there made himself lawyer enough to recover a considerable part of his estate, which had been detained from him by some of his family. Mr. Edgeworth relates an anecdote respecting his father, which will remind our readers of an incident in 'Patronage' that has been blamed and ridiculed, as exceedingly unnatural and even impossible.

'He told me a singular detection of fraud in one of the suits, in which he was engaged: a deed was produced against him, which was witnessed by a very old man, who was brought into court. His venerable aspect prepossessed the court strongly in favour of his veracity: he said that he was an ancient servant of the Edgeworth family, and had been accustomed to transcribe papers for the gentleman who had executed the deed. He began, by declaring, that he had foreseen from the particular circumstances of the deed, which went to disinherit the heir of the family, that the transaction might hereafter be brought into dispute; he had therefore, he said, privately put a sixpence under the seal of the deed, which would appear if the seal were broken. The seal was broken in open court, and the sixpence was found to be dated five years subsequent to the date of the deed!—The deed being thus proved to be a forgery, my father gained his suit. vol. i. pp. 17, 18.

Mr. Edgeworth was a very forward and rather a petulant child, but fortunately his mother was uncommonly sensible and determined. She had excellent notions upon education and did not suffer the execution of her plans to be impeded by the selfishness which would rather ruin a child than hear him cry. We may quote the following as an instance of her judicious management.

One day Mr. Edgeworth thought proper to fall into a violent rage with his elder brother and to throw at his head a *box-iron* which a maid who was ironing had just laid down;

his brother avoided the blow by stooping, and thereby, in all probability, saved his life. The maids seized the young offender, dragged him down stairs to his mother, and there entered a complaint with one accord and with becoming zeal and indignation. Mrs. Edgeworth seemed horrorstruck, but said not a word to him in anger.

'She ordered every body out of the room except myself, and then drawing me near her, she spoke to me in a mild voice, but in a most serious manner. First, she explained to me the nature of the crime, which I had run the hazard of committing; she told me, she was sure that I had no intention seriously to hurt my brother, and did not know, that if the iron had hit my brother, it must have killed him. While I felt this first shock, and whilst the horror of murder was upon me, my mother seized the moment, to conjure me to try in future to command my passions. I remember her telling me, that I had an uncle by the mother's side who had such a violent temper, that in a fit of passion one of his eyes actually started out of its socket. "You," said my mother to me, "have naturally a violent temper: if you grow up to be a man without learning to govern it, it will be impossible for you then to command yourself; and there is no knowing what crime you may in a fit of passion commit, and how miserable you may in consequence of it become. You are but a very young child, yet I think you can understand me. Instead of speaking to you as I do at this moment, I might punish you severely; but I think it better to treat you like a reasonable creature. My wish is to teach you to command your temper; nobody can do that for you, so well as you can do it for yourself."

'As nearly as I can recollect, these were my mother's words; I am certain this was the sense of what she then said to me. The impression made by the earnest solemnity with which she spoke, never during the whole course of my life was effaced from my mind. From that moment I determined to govern my temper. The determinations and the good resolutions of a boy of between five and six years old are not much to be depended upon, and I do not mean to boast, that mine were thenceforward uniformly kept; but I am conscious, that my mother's warning frequently recurred to me, when I felt the passion of anger rising within me; and that both whilst I was a child, and after I became a man, these her words of early advice had most powerful and salutary influence in restraining my temper.' vol. i. pp. 28—30.

Mr. Edgeworth must have been a very bright boy; the instances he is continually giving of the facility with which

he acquired and maintained a superiority over his schoolfellows, prove that his mind was prompt and active. After he left school he grew tired of literary pursuits, took to sporting and became a desperate hunter and an excellent shot. When he was quite a boy his elder brother died, so that he became the heir and the hope of the family; much to his misfortune, as it became immediately important that so much care should be taken of his health and life that his strong constitution almost sunk under it. In his youth when about fourteen, rather a singular accident befel him; he was married one evening while perfectly guiltless of any intention of the sort. One of his sisters had just entered the holy state of matrimony, and the family were testifying their joy and the neighbours their sympathy, by balls, festivities, and carousings of all sorts. Mr. Edgeworth's favourite partner at these wedding dances was the daughter of the curate from whom he had learned his accidence.

'One night after the dancing had ceased, the young people retired to what was then called a *raking pot of tea.* A description of this Hibernian amusement I have given in another place. It is here sufficient to say, that it is a potation of strong tea, taken at an early hour in the morning, to refresh the spirits of those who have sat up all night. We were all very young and gay, and it was proposed by one of my companions, who had put a white cloak round his shoulders to represent a surplice, that he should marry me to the lady with whom I had danced.

'The key of the door served for a ring, and a few words of the ceremony, with much laughter and playfulness, were gabbled over. My father heard of this mock-marriage, and it excited great alarm in his mind. He was induced by his paternal fears to treat the matter too seriously, and he instigated a suit of *jactitation of marriage* in the ecclesiastical court to annul these imaginary nuptials. The truth was apparent to every body who knew us. No suspicion even was entertained of the young lady's having any design on my heart, or of my having obtained any influence in hers. All the publicity that was given to this childish affair was fortunately of no disadvantage to her; on the contrary, it brought her into notice among persons with whom she might not otherwise have been acquainted, and she was afterwards suitably married in her own neighbourhood. It was before I was sixteen, that I was thus married and divorced. I say *married*, because in the proceedings in this strange suit it was necessary to shew, that a marriage had been solemnized, or else there could have been no divorce.' vol. i. pp. 70, 71.

His next marriage was almost as singular, though of a different character. In 1761, his father sent him to Oxford. A Mr. Elers, a retired barrister, lived in the neighbourhood, and Mr. Edgeworth, sen. who had long known him, wrote to request permission to present his son to him: Mr. Elers advised him to do no such thing, 'as he had several daughters grown and growing up, who, as the world said, were pretty girls; but to whom he could not give fortunes that would make them suitable matches for Mr. Edgeworth's son;' but the father persisted and the son fell in love with one of the daughters and engaged himself to her. He then went to make a visit to Bath and there soon found out that his hand was bound faster than his heart; the dissipation of a watering place cured him of all love very effectually, but he returned punctually to the lady and true to his word offered her his hand, and true to his conscience told her with what feelings; but she, probably thinking if he had loved her once he might again, chose to marry him, and away they went to Gretna Green before he was twenty.

At Bath he became accidently acquainted with Sir Francis Delaval, one of the most fashionable and dissipated men of his day. Mr. Edgeworth relates several amusing anecdotes of this man, as he does indeed of every one whom he has occasion to mention. His acquaintance with Sir Francis arose from his discovery of the tricks of a juggler then in Bath, which Sir Francis thought no one had ingenuity to see through but himself, and he invited Mr. Edgeworth to pass some weeks at his house, where he meant to play them off himself upon the public.

'At first our joint exhibition of wonders occcupied my attention. After arranging our contrivances in the house in Downing Street, where Sir Francis lived; by preconcerted confederacy, we had it in our power to execute surprising feats. Company of all sorts crowded our exhibitions. Sir Francis was known to every body; but I, as a stranger, was not suspected of being combined with the arch fiend in deceiving the spectators. Feats, physically impossible without such assistance, were performed by seeming magic, and many were seriously alarmed by the prodigies which they witnessed. The ingenuity of some of the contrivances, that were employed in our deceptions, attracted the notice not only of those who sought mere amusement, but of men of letters and science, who came to our exhibitions. This cir-

cumstance was highly grateful to Sir Francis, and advantageous to me. I, by these means, became acquainted with many men of eminence, to whom I could not at that period of my life have otherwise obtained familiar access. Among the number were Dr. Knight, of the British Museum; Dr. Watson; Mr. Wilson; Mr. Espinasse, the Electrician; Foote, the author and actor, a man, who, beside his well known humour, possessed a considerable fund of real feeling; Macklin, and all the actors of the day.' vol. i. pp. 122, 123.

Once when Sir Francis had occasion to stand for the Borough of Andover, a strenuous opposition took place, which made every vote valuable; one voter alone declared that he would not vote at all, and adhered to his resolution in spite of Sir Francis' efforts to win him. At last he discovered that this man, who was so obstinate in his neutrality, had a passion for seeing sights, and made it a point to go to London when any thing extraordinary was exhibiting there, but had never been able to see a fire-eater.

'Sir Francis proposed to carry him immediately to town, and to shew him the most accomplished eater of fire that had ever appeared. The wary citizen of Andover suspected some trick, and could by no means be prevailed upon to go up to town. Our staunch candidate, never at a loss for resource, despatched instantly a trusty servant to London, requesting Angelo to come to his assistance. Among his various accomplishments, Angelo possessed the art of fire-eating in the utmost perfection; and though no pecuniary consideration could have induced him to make a display of his talents in such an art, yet to oblige Sir Francis, to whom all his friends were enthusiastically devoted, Angelo complied. A few hours after he received the request, he thundered into Andover in a chaise and four, express, to eat fire for Sir Francis Delaval's friend! When the obdurate voter saw this gentleman come down, and with such expedition, on purpose to entertain him, he began to yield. But when Angelo filled his mouth with torrents of flame, that burst from his lips and nostrils, and seemed to issue even from his eyes; when these flames changed to various colours, and seemed continually to increase in volume and intensity; our voter was quite melted: he implored Angelo to run no farther hazard; he confessed, "that he did not think the devil himself could cast out such torrents of fire and flame, and that he believed Sir Francis had his Satanic Majesty for his friend, otherwise Sir Francis never could have prevailed upon him to break the vow which he had made not to vote for him.' vol. i. pp. 129, 130.

The following anecdote will indicate to one class of our readers an alarming state of their profession in England. The remainder of the extract gives us no favourable impression of the constitution of fashionable society in London at the period to which it refers.

'His [Sir Francis'] attorney's bill was yet to be discharged. It had been running on for many years, and though large sums had been paid on account, a prodigious balance still remained to be adjusted. The affair came before the King's Bench. Among a variety of exorbitant and monstrous charges there appeared the following article.

'"To being thrown out of the window at the George Inn, Andover—to my leg being thereby broken—to surgeon's bill, and loss of time and business—all in the service of Sir F. B. Delaval. —Five hundred pounds."

'When this curious *item* came to be explained, it appeared, that the attorney had, by way of promoting Sir Francis' interest in the borough, sent cards of invitation to the officers of a regiment in the town, in the name of the mayor and corporation, inviting them to dine and drink His Majesty's health on his birthday. He, at the same time, wrote a similar invitation to the mayor and corporation, in the name of the officers of the regiment. The two companies met, complimented each other, eat a good dinner, drank a hearty bottle of wine to His Majesty's health, and prepared to break up. The commanding officer of the regiment, being the politest man in company, made a handsome speech to Mr. Mayor, thanking him for his hospitable invitation and entertainment. "No, colonel," replied the mayor, "it is to you that thanks are due by me and by my brother aldermen for your generous treat to us." The colonel replied with as much warmth as good breeding would allow: the mayor retorted with downright anger, swearing that he would not be choused by the bravest colonel in His Majesty's service.—"Mr. Mayor," said the colonel, "there is no necessity for displaying any vulgar passion on this occasion. Permit me to shew you, that I have here your obliging card of invitation."—"Nay, Mr. Colonel, here is no opportunity for bantering, there is your card."

'Upon examining the cards, it was observed, that, notwithstanding an attempt to disguise it, both cards were written in the same hand by some person, who had designed to make fools of them all. Every eye of the corporation turned spontaneously upon the attorney, who, of course, attended all public meetings. His impudence suddenly gave way, he faltered and betrayed himself so fully by his confusion, that the colonel, in a fit of summary justice, threw him out of the window. For this Sir Francis

Delaval was charged five hundred pounds.—Whether he paid the money or not, I forget.

'Some years before I was acquainted with him, Sir Francis, with Foote for his coadjutor, had astonished the town as a conjuror, and had obtained from numbers vast belief in his necromantic powers. This confidence he gained, chiefly by relating to those who consulted him the past events of their lives; thence he easily persuaded them, that he could foretell what would happen to them in future; and this persuasion frequently led to the accomplishment of his prophecies. Foote chose for the scene of their necromancy a large and dark room in an obscure court, I believe in Leicester Fields. The entrance to this room was through a very long, narrow, winding passage, lighted up by a few dim lamps. The conjurer was seated upon a kind of ottoman in the middle of the room, with a huge drum before him, which contained his familiar spirit. He was dressed in the eastern fashion, with an enormous turban, and a long white beard. His assistant held a white wand in his hand, and with a small stick struck the drum from time to time, from which there issued a deep and melancholy sound. His drogoman answered the questions that were asked of him by his visitants, while the conjuror preserved the most dignified silence, only making signs, which his interpreter translated into words. When a question was asked, the visitant was kept at a distance from the drum, from which the oracle seemed to proceed. The former habits, and extensive acquaintance of Sir F. Delaval, and of his associates, who, in fact, were all the men of gallantry of his day, furnished him with innumerable anecdotes of secret intrigues, which were some of them known only to themselves and their paramours. Foote had acquired a considerable knowledge of the gallantries of the city; and the curiosity, which had been awakened and gratified at the west end of the town by the disclosure of certain ridiculous adventures in the city, gave to the conjurer his first celebrity. It was said, that he had revealed secrets that had been buried for years in obscurity. Ladies as well as gentlemen among the fools of quality were soon found, to imitate the dames of the city in idle and pernicious curiosity; and under the sanction of fashion, the delusion spread rapidly through all ranks. Various attempts were made to deceive the conjurer, under false names, and by a substitution of persons; but he in general succeeded in detecting these, and his fame stood at one time so high, as to induce persons of *the first consideration* to consult him secretly. His method of obtaining sudden influence over the incredulous was by telling them some small detached circumstances, which had happened to them a short time before, and which they thought could scarcely be

known to any body but themselves. This he effected by means of an agent, whom he employed at the door as a porter. This man was acquainted with all the intriguing footmen in London, and whilst he detained the servants of his master's visitants as they entered, he obtained from them various information, which was communicated by his fellow servants through a pipe to the drum of the conjurer. It was said, that in the course of a few weeks, while this delusion lasted, more matches were made, and more intrigues were brought to a conclusion, by Sir Francis Delaval and his associates, than all the meddling old ladies in London could have effected or even suspected in as many months. Among the marriages was that of Lady Nassau Paulet with Sir Francis himself. This was the great object of the whole contrivance. As soon as it was accomplished, the conjurer prudently decamped, before an inquiry too minute could be made into his supernatural powers. Lady Nassau Paulet had a very large fortune, I believe eighty thousand pounds, of all which Sir Francis Delaval became possessed by this marriage. Her ladyship died soon afterwards, and her fortune did not long continue to console her husband for her loss. The whole of the eighty thousand pounds he contrived soon to dissipate.' vol. i. pp. 138—139.

The following anecdote of George III. contains, we imagine, one of the very few pleasantries which will be recorded in the chronicles of that worthy monarch.

'The king (George III.) had bespoke an instrument, which he was peculiarly desirous to obtain; he had allowed Ramsden to name his own time, but, as usual, the work was scarcely begun at the period appointed for delivery; however, when at last it was finished, he took it down to Kew in a postchaise, in a prodigious hurry; and driving up to the palace gate, he asked if *his Majesty was at home.* The pages and attendants in waiting expressed their surprise at such a visit: he however pertinaciously insisted upon being admitted, assuring the page, that, if he told the king that Ramsden was at the gate, his Majesty would soon shew that he would be glad to see him. He was right, he was let in, and was graciously received. His Majesty, after examining the instrument carefully, of which he was really a judge, expressed his satisfaction, and turning gravely to Ramsden, paid him some compliment upon his punctuality.

'"I have been told, Mr. Ramsden," said the King, "that you are considered to be the least punctual of any man in England; you have brought home this instrument on the very *day* that was appointed. You have only mistaken the *year!*"' vol. i. pp. 191, 192.

We should have been glad to have presented our readers

with an account of Dr. Darwin, with whom Mr. Edgeworth lived in intimacy and correspondence, and of whom he gives some anecdotes. Mr. Edgeworth's residence at Lyons and his pursuits there are an interesting part of the book; and the account of Mr. Day, the eccentric author of Sandford and Merton, would have gratified the curiosity of our fair novel readers, since the whim of this gentleman to educate for himself a wife,—being alike unable to find one such as he wished, ready made, or to be quiet without one,—appears to have suggested the same incident in Belinda. A number of curious anecdotes are contained in these volumes, relative to Mr. Edgeworth's mechanical pursuits, particularly to the adventures of a one-wheeled chaise. Some anecdotes of Miss Seward appear to have the effect of throwing a new light on that lady's character, in the important point of veracity. But we cannot spare room to follow Mr. Edgeworth through his long and various life. He resided principally in Ireland, and in the latter part of his life entered into Parliament there, and became an active and useful public man. He preserved that part of the country in which he lived from much harm, with which it was threatened in the rebellion of 1798; less, however, by his talents, than by the weight of his character, by the influence he derived from his persevering and unimpeachable integrity.

The work upon education was written by himself and his daughter conjointly. But how this was managed we are sorry that we do not learn precisely from what is said of it. It is a singular thing for two strong minds to act simultaneously and upon the same subject, without interfering at all with each other. We can hardly imagine one pursuing the train of thought which the other had commenced, and coming to the result which the other had only approached. It seems probable that one must have sketched the outlines, which the other filled up, or else that each wrote entirely a distinct part of the work. We have often heard that he had a great share in the composition of the novels and tales his daughter has published, but while Miss Edgeworth evidently wishes to give all possible credit to her father, it is very clear, even from her account of it, that he only revised, and perhaps corrected what she wrote. We however feel somewhat anxious that Miss Edgeworth should publish some work of sufficient magnitude to test her powers now that she stands alone and unaided. If it be decidedly inferior to those with which she has already

favoured the world, we shall be exceedingly disappointed, for at present we cannot believe that any great portion of the talent, which has made all her works, even the most trifling, so amusing and instructive, lies buried with her father.

Mr. Edgeworth was constantly anxious to collect facts, and to draw from them rational and practicable rules with regard to education; and whatever may have been his success, he deserves well of the world for having given his attention to a subject, at once so important and so much neglected; the work which he and his daughter published is the only one we know, of any talent or magnitude, exclusively devoted to it. The science of education is so little regarded, that the very phrase seems almost unwarrantable; yet nothing is more certain, indeed nothing is more universally admitted, than that childhood and youth commonly fix the character both of the heart and the mind for life, and perhaps the destiny for ever. It is then singular, that sensible men have so rarely exerted their powers upon a subject, which deserves their attention so much, and would repay it so well. Almost nothing has been done in watching the growth of the mind with a view to direct or accelerate it, and therefore little is known with certainty of the causes which operate to increase or discipline its powers, to hasten or retard its development.

The book to which we alluded above is a very useful and valuable one; with some of the views and theories it contains we cannot agree, but it is full of sound sense, and gives the result of a great deal of patient and judicious observation. The tree is known by its fruits, and Mr. Edgeworth's skill in education may best be tested by the success which attended his labours in the instance of his daughter Maria; whom, we do not hesitate to say, he aided nature in making one of the first and most useful women upon earth; an honour to her sex and a great good to mankind. In some of her tales, particularly 'the Good Governess,' and in her smaller books for children, she has stated and illustrated many of her father's principles, and the practical result which may be expected from them, every book she has published has shewn, in proving the extent of her powers, and the excellent use she is disposed to make of them.

Much improvement has been effected of late years in education, but much remains to be done. The great mistake in the systems in practice here, especially in female education,

is, we think, this, that it is made much more an object to fill, than to strengthen the mind. The memory does more than its share of work; the pupil should have tasks to be learned by rote, but he should too be often urged to an active and vigorous exertion of the intellect generally. History, geography, perhaps languages, and the elements of some sciences are taught, and the pupil is thought to become sensible, just in proportion as he becomes knowing: while in fact no one faculty of the mind is profited by such a course of study, excepting the memory. All the things which are now learned should certainly be taught, but they should not be considered, either by learner or instructer, as chiefly good in and for themselves. It must be always remembered by the master, and, if possible, distinctly explained to, and strongly impressed upon the pupil, that facts are principally and indeed almost solely valuable, when they are made materials for thought. It is one thing to add to the stores of the intellect, and another to enlarge its resources. Not unfrequently have minds of ordinary strength been weakened and cramped by the unwieldly mass of knowledge heaped upon them. It is dangerous to a common mind to have authorities constantly at hand, leading-strings at every step; for the exercise of judgment is an effort which will not be made, unless there be a call for it, and the power of judgment, if left unemployed and inactive, will sleep and die. No matter how much learning be acquired, but more should be done by exercises in composition, or in some similar way, to methodize and turn to good account the knowledge which is gained; to enrich and chasten the imagination, to sharpen the judgment, invigorate the power of ratiocination, and give force and activity to the whole intellect. By the present system, or rather by that exclusively in use some years since, a sensible boy or girl might pass the most improving and important years of life at school, and be very industrious there, and yet come home possessed of less intellectual power, than when they went;—because, during the greatest part of that time, the imagination and the judgment, the power of combining ideas and of examining truths, so far from being assisted and cultivated, were not even suffered to have their natural growth, but were carefully repressed and kept in a state of forced inaction, lest the attention should be impeded in its endeavour to fasten facts upon the memory. And this may be one reason

why a boy's success at school is a very unsafe criterion, by which to judge of his future intellectual rank; a strong mind will act,—will put forth its power in some direction or other, and a child, who is gifted with an ardent imagination and an active mind, may find it far more difficult to direct and fix his attention upon an object which does not interest him, and to chain down his other faculties, than a boy who is really duller and weaker. If the object of education be general improvement, there can be no doubt which of these systems should be adopted, unless improvement means the palsying, rather than the strengthening of the mind, the accumulating, rather than the using of knowledge; and if its object be to increase our power of amusing, interesting, and influencing those about us, there can be as little question. So far as colloquial talent is a good thing, we all know what exceeding dull work it is to listen to a conversation made up of other men's shreds and patches, and how gladly we fly from one who talks truisms and sage remarks, which he can neither appreciate nor maintain, to intercourse with a mind which acts for itself in fearlessness and independence; which habitually forms its own opinions, and knows upon what grounds. Intellectual strength and intellectual wealth generally go together in some degree, for the strongest mind cannot act without materials, and none but a mind of some strength can make large acquisitions, but they are not identically the same thing, and but little experience in life is needed to teach, that force and activity of mind are far more efficient in giving their possessor eminence and power, than a mere abundance of knowledge. When Bacon said, 'knowledge is power,' he referred to its effect upon mankind at large, and it is true that scientific and philosophical knowledge have given man a mastery over the elements, and bowed to his bidding earth, sea, and air, but the maxim certainly will not bear a very close application to individuals.

We might have given our readers more amusement by making this article consist rather more of extracts, but it would be difficult to give, by a few instances a fair impression of Mr. or Miss Edgeworth's *manière de raconter;* and after all the book will owe much of the popularity it must acquire to the anecdotes, with which it abounds, and which are exceedingly well told, and illustrative of the characters of many singular or celebrated persons. We believe and hope that it

will be reprinted in this town, and then our readers can judge for themselves of its character and profit by the various talent it displays.

ART. XVII—*Report of the Committee, who were directed to take into consideration, whether any, and if any, what measures ought to be adopted, in consequence of the state of things resulting from the separation of Maine from this Commonwealth, with leave to report by bill or otherwise.* Boston, 1820.

THE act of the last session of the General Court of Massachusetts, relating to the calling of a convention of delegates of the people for the purpose of revising the constitution, is frequently spoken of as an assumption of power, which can be justified only because it was necessary. This reason, or rather this apology for giving no reason, has of late years become too common. It is ordinarily designed by those, who use it, to conceal their real motives, or to save the trouble of explaining them; and they often succeed in stopping with it the mouths of their adversaries; but when urged by men not satisfied with mere words, to show to what end the measure they vindicate is necessary, and how it is so, they are sometimes driven to the confession of motives, which do them little honour, or to the allegation of pretexts, which are almost ludicrous. If a powerful nation attacks a faithful and unsuspecting ally, sets his capital on fire, and robs him of his navy, it is necessary. But why?—To prevent the danger of his being robbed of it by his enemies. When a military sovereign invades nation after nation without a pretence of right, it is necessary—for his fame. And to descend to humbler instances, should banking corporations, after obtaining an extensive credit by the general circulation of their notes, refuse to redeem them, and set their creditors at defiance, at the same time declaring dividends of their profits, thus acknowledging that their property was more than sufficient to pay all their debts and to replace their capital, what name should we give to their conduct, if they did not find a justification for it in the whimsical necessity of gaining twenty per cent. a year by the violation of their contracts? Or suppose it should by possibility happen that a particular class of

men, manufacturers for example, having increased in wealth and power so much more rapidly than the rest of the community, as to acquire in a few years an almost commanding influence in the national councils, demanded that tax after tax should be imposed for their emolument, without laying down before hand any system or principle, by which the amount of those taxes should be regulated, or proposing any limitation of them but their wants, increasing with every supply, and appeared to think all that had been granted them nothing, while any thing remained to their fellow citizens, who would not be surprized and indignant at their rapacity, if it were not necessary—for the promotion of national industry? In this last case we admit the professed object to be laudable, and do not doubt but the measures proposed have some tendency to accomplish it; for when enormous taxes are imposed on the public to support the great establishments of wealthy manufacturers, all other classes of society, such as farmers, tradesmen, and mechanics, oppressed as they will be by the burden, must be very industrious indeed to save themselves from starving.

It is not denied that a real necessity may exist for acts otherwise unjustifiable; but surely a people, who value their rights, will not suffer their public agents to shield themselves under the bare assertion of its existence. They will demand incontrovertible evidence of the fact, and listen to it with a jealous ear. This is the more requisite as the argument that any thing should be done, simply because it is necessary, is an admission upon the face of it that the measure is bad in itself; since if its necessity be the reason for adopting it, that reason failing, it ought not to be adopted; and what ought not to be done when it can possibly be avoided, is not a good deed.

Though the act we are examining has now gone into operation, and the people have decided under it that a convention shall be holden, it may be not wholly uninteresting nor useless to examine the grounds of its alleged necessity. By some this is thus maintained. Since the separation of Maine, there are only ten districts in the Commonwealth, and from these only thirty-one senators are chosen, whereas the constitution provides that there shall never be less than thirteen districts, and that there shall be annually elected by the freeholders and other inhabitants forty persons to be

counsellors and senators. Hence it is argued that the thirty one persons elected this year do not constitute the Senate, and had no authority to administer the oaths of office to the present governor, who of course cannot administer them to the next legislature nor they to his successor, so that no public officer can hereafter be constitutionally qualified to act, and thus the government is dissolved, and cannot be reorganized without a convention.

This argument is founded on the assumption that a literal compliance with every direction relating to the choice of senators is a condition, on which the existence of the Senate depends. That such assumption is in the present case erroneous, is manifest from the fact that by a subsequent article of the constitution provision is made for supplying the deficiency in the Senate in case forty persons should not be elected by the people. It is contrary to analogy and to all sound rules of construction to consider any regulation of the election as a condition essential to the being of the legislature, unless it is declared to be so by the constitution itself. 'The selectmen of the several towns shall preside and shall receive the votes of all persons qualified to vote.' If in a single instance they refuse to preside, or reject a legal vote, they may be punished, but the government is not therefore dissolved. So by the constitution of the United States, the Senate shall be composed of two senators from each state. Should any one state elect no senators, is the government of the Union at an end? Had one of the thirteen districts, into which the Commonwealth was divided, been swallowed by an earthquake or conquered by an enemy, the constitution would not, therefore, have been destroyed; though it would have become the duty of the legislature to divide the state anew; and omitting to do this seasonably would have been a violation of that duty. If forty members be essential to the Senate, suppose that the inhabitants of a single district should refrain from voting, or that a sheriff should lose or destroy the returns, or that a senator chosen unanimously should die or decline the office, we should be reduced to a state of anarchy; and thus the continuance of our government would depend on the fate or the caprice of an individual.

This is not the first time that the Senate has consisted of a smaller number than the constitution directs. For three successive years no returns were received from the district of

Dukes county and Nantucket, and of course but thirty-nine members were chosen to the Senate and but twelve districts represented in that body; and these were the three first years after the organization of the government. Yet the Senate and House of Representatives, in which were many who had been members of the convention for framing the constitution, and who must therefore have known its meaning and felt a strong interest in its faithful and successful administration, simply voted that it was inexpedient to fill the vacancy, and did not hesitate to assume legislative authority. According to this new doctrine, however, neither they nor any of their successors were duly qualified to exercise it; we have lived without government from that day to this; our whole statute book is a dead letter, and our judges and sheriffs, under colour of unconstitutional laws, have been all along committing false imprisonment, and robbery, and murder.

But though the actual deficiency in the Senate does not disorganize the government, it certainly renders it incumbent on the legislature to divide the Commonwealth, as it now exists, into new districts in conformity with the constitution. This instrument requires that forty persons be elected, that the number chosen in the several districts be in proportion to the public taxes levied in them, and that no district be so large as to entitle it to choose more than six. This last clause is supposed by some to be not merely a limitation of the number, which any one district may send, and a qualification of the preceding provisions so far as they would interfere with it, but a regulation of the size of the districts, and is relied upon to prove that a convention is necessary; for the town of Boston alone, it is said, is already so large as to be entitled to choose more than six senators, if the number assigned to each district be in proportion to its taxes. The obvious mode of surmounting this difficulty would be to divide the town into two or more districts, which, however inconvenient it might be, would put an end to this argument for the necessity of a convention. We are told, however, that the mode of voting prescribed by the constitution is such that a town cannot constitutionally be divided. Our answer is, that admitting the assertion to be correct, it creates no necessity for changing the frame of government. The argument amounts to this; the constitution requires impossibilities, and since impossibilities cannot be done, therefore it

must be altered. But it is easy to retort such reasoning; since impossibilities cannot be done, therefore they cannot be required. It is a solecism in terms to declare a town indivisible and at the same time direct that it be diminished; and the instrument, which does so contradict itself, is to the extent of that contradiction nugatory, though in every other respect still binding. When a constitution is carried into operation as far as it is consistent and practicable, it is faithfully and perfectly administered. The real difficulty seems to be that Boston is too large or too wealthy. The course of nature, or rather the providence of the Almighty, has made it flourish. Is this a violation of the constitution; and if it be, whose hand has committed it? Had the state never been divided, and the town of Boston gone on increasing till it paid more than six fortieth parts of all the public taxes, the same objection would have arisen, yet will any one pretend that the prosperity of the capital would have subverted the government?

Probably the clause referred to was designed simply to be a paramount limitation of the number of senators, which any one district might send, and not to determine the size of the senatorial districts. Such an opinion is supported not only by the uniform rule that every instrument should be so construed as to render it consistent with itself and give effect to all its provisons, but by the manner in which this clause was introduced into the constitution. While the instrument was under discussion in the convention, a member of that body proposed that some number of senators should be fixed which no county or district might exceed, and was himself appointed a committee to prepare such a restriction. Under these instructions the present proviso was written and reported, and it was immediately accepted as a compliance with them.

If this construction be correct, every rule of the constitution may be strictly carried into effect by making the town of Boston one senatorial district for the choice of six senators, and dividing the rest of the state so as to apportion the senators among the other districts in proportion to the taxes paid in them. And even if it be deemed erroneous, if the object of the proviso was to settle the size of the districts, and if a town be indivisible, still the same mode is a compliance with the constitution as far as it is consistent and practicable, and of course as far as it is obligatory. The number of

senators assigned to each district has never been in exact proportion to its public taxes, nor was it possible to make it so; yet no one has complained that this circumstance rendered a new constitution necessary. The act of the last session itself supposes that calling a convention is not a measure of absolute necessity; for it would be mere mockery to submit to the people a question which admitted but one answer. Had a majority of votes been against a convention, will it be pretended that the present frame of government could not have been carried into operation? and if it can be administered as it now exists, where is the necessity of changing it?

It is an imperfection in any instrument to contain contradictions, but not in every case a fatal one; nor is it always expedient to employ extraordinary means to remove it, unless it has a tendency to produce some practical mischief. Though a statute should contradict itself in terms; yet if the courts of justice in applying it construed it in such manner as to carry into effect the real intention of the legislature, it would not be necessary, nor perhaps wise, to repeal it.

Why then did the legislature undertake to submit this question to the people at all? Because its duty is to make all orders, laws and instructions, not repugnant to the constitution, which it deems conducive to the general welfare; and it is the right of the people, not repugnant to the constitution, to alter their frame of government whenever they think proper, and of course to decide at any time whether they will then alter it. Hence when the legislature judges it conducive to the welfare of the community, to submit this question to the people, it may and should do so, and facilitate as far as possible the expression and execution of the public will.

By the establishment of the state of Maine this Commonwealth is reduced to less than one seventh part of its ancient territory, and it is obviously a question worthy of consideration, by those who are competent to decide it, whether this great change of condition do not warrant some change in our frame of government, which may render it less expensive and unwieldy. Besides, the constitution is not now carried into operation according to its true meaning. It was originally designed that the Council and Senate should together consist of only forty members, and the mode established for supplying the places of those who should decline the first election was intended as an exception to the general

rule, and its object was to fill an occasional vacancy. But in practice the exception has taken place of the system, and for many years past forty-nine persons have been employed as counsellors and senators. If the Senate was wisely constituted at first, it can hardly be reasonable that it should now be so much larger, when the state itself is so much diminished. The quorum too is fixed at sixteen, the proper number while the whole body contained only thirty-one members, but not so now that it consists of forty. It is said to be inconsistent with sound principle for less than a majority of any legislative assembly to constitute a quorum; for then every quorum might organize itself separately, and thus two or more constitutional legislatures exist at the same time.

The other branch of the legislative body has also increased so much more than could have been anticipated, that from the towns contained within our present limits there may be chosen, there have actually been chosen, more than twice as many representatives as ever sat in any other legislature in the union. An enormous expense is thus incurred with no other effect, than to render the house a burden to itself, and to diminish in a surprising degree its diligence and its usefulness. How can we expect any thing like connexion or consistency in the laws when the House of Representatives may contain six quorums, and proceed to business every day in the week, yet no individual be twice present; when a bill may originate in one body, be discussed in another, and enacted by a third. The neglect of many towns to choose representatives has in general prevented the evils which must otherwise have arisen from their number. But this is evidently repugnant to the spirit of the constitution, and renders the representation grossly unequal.

For these and similar reasons many thought it expedient that a convention should be holden, many deemed it necessary, and there was good ground for the General Court to believe that the will of the people was in favour of the measure. If such were their will, it ought to be accomplished; if not, the peace and welfare of the community required that this fact should be known, so that no man hereafter might pretend, with the hope of being believed, that the government designed or desired to stifle the public voice. Should any one say that this amounts to a moral necessity, we shall not quarrel with the expression; we condemn it only when it is used as a sub-

stitute for reason, an apology for acts admitted to be wrong in themselves, and a mere cover for the hollowness of a rotten cause.

The General Court has been aptly compared to an agent, acting under special authority, and it has been asked what he ought to do if a case occurred, in which he was not empowered to act. It seems to us that he should do nothing, but refer the case to his principal, and inquire what he will have done. But suppose he has no express power to make the inquiry? This is no exercise of power, but a duty resulting from his situation as agent, and if it be his duty, surely he has a right to do it. So in government, when a question occurs, the decision of which involves the welfare of the people, and they have not delegated, but retain the power of deciding it, the legislature is bound to refer it to them as the only competent tribunal.

By the act, as first reported, it was provided that two thirds of the votes should be required to determine the question in the affirmative. In every society of equals a majority must of course decide all questions, where the society itself has not expressly adopted a rule requiring a larger number. This the people may do and have done, as in our own constitution, with regard to the question whether a convention should be holden in the year 1795; and some have contended that since the same reasons exist for the rule now as then, the people should and would have adopted it in the present case, had its occurrence been foreseen. This may be very true; but after all, the question recurs, have they in fact done it? if not, the legislature cannot do it for them. Let him, who thinks they have done it, lay his finger on the letter. We cannot find it.

The purpose for which a convention of delegates of the people is to be holden and which should be kept in view in all our speculations on the subject, is to revise and alter the constitution, not to make a new one; to remove doubts, prevent misconstructions, and correct abuses, not to polish and improve the style; to make it a better frame of government in practice, not a more ingenious, logical and connected treatise on the rights of man. We are to consider not what sort of a constitution should now be formed, but what provisions of that now existing may be usefully altered. However many excellencies our wise men might combine in a

new system, they could not give it that quality which does command and ought to command more than all others the confidence of the people, the sanction of time and experience.

The principal abuse which has crept into the administration of our government is the augmentation of the number of senators. This branch of our legislature has for many years been larger than the corresponding body in any other state. That of New York indeed formerly exceeded it, but in 1801 a convention was called principally for the purpose of diminishing the legislature, and the number of senators was then permanently fixed at thirty-two. Was not our own constitution as well administered, were not the rights of the people as faithfully guarded before as since the enlargement of the Senate? It is important that one branch of the legislature should be so small as to be exempt from the influence of appeals to the passions, and from the temptation to oratorical display; that each individual may be deeply impressed with a sense of his responsibility, may have an opportunity to express his opinion and the reasons of it with relation to every subject submitted to him, and may feel that they will be known and weighed by the public. Should the original number of thirty-one senators be re-established, the difficulty now existing with regard to their apportionment will for the present be removed, and its recurrence may be prevented by providing expressly that no town shall form more than one senatorial district, and no district send more than six senators, as was probably the original intent of the constitution. The council would then be chosen at once, as it now is ultimately, from the people at large, without the previous ceremony of electing senators in order that they may decline, and thus sending about the high offices of the Commonwealth to beg for occupants.

The principle by which senators are apportioned among the several districts is more frequently condemned than understood; and it is sometimes said by those ignorant of its origin to be a remnant of aristocracy. Now in truth nothing bearing the least resemblance to it existed under our colonial or provincial charter; but some of the most zealous and enlightened patriots of the revolution, having been led during that contest to a close investigation of the rights of man and the foundations of government, recommended the intro-

duction of this principle into our constitution, as establishing an exact equality of rights, and being the characteristic and security of a perfectly free republic. As those of our readers, who have paid no attention to the elementary principles of society, may not perceive at once the arguments which led to this conclusion, we shall recapitulate them briefly at the hazard of being tedious to those who are already familiar with them.

Before the establishment of social intercourse every man has a right to the exclusive control of his person and of the property which he has acquired by his labour, but has no other means of maintaining this right than his own strength and ingenuity, and is consequently exposed to the depredations of all who are stronger or more cunning than himself. Such, if it be not an abuse of language to give these names to rights so precarious, such are property and freedom in a state of nature. To obtain security for these rights, without which they are little more than nominal, men enter into society, and in so doing each individual yields to the community the right of controlling his person and property, so far as it is requisite for the welfare of the whole; and the equivalent which he receives, for without an equivalent the bargain would not be just nor binding, is the benefit derived by him as a member of the community from the same surrender on the part of every other individual. Were a society formed for the sole purpose of regulating the conduct of its members, without reference to their property, so that each surrendered to the whole the right of controlling his person only, it is obvious that all would make an equal concession, since the personal rights of all men in every condition are the same; and therefore all ought to receive equal benefit and have equal authority. A majority of individuals must then decide every question; for they must have a better right to do so where all have an equal voice, than any smaller number can have. But in associations established for the management of property alone, when different persons bring into the common stock different sums, the benefit which they derive from it and their power to control it ought to bear some proportion to their respective contributions. For if he who gives much to the common fund has no more right over it than he who gives little, they pay different prices for the same privilege, which is unequal and unjust. The natural rule in this case is, that

the holders of the major part of the property should decide all questions relating to its management. This principle influences the laws of every civilized community ; it is adopted in most maritime codes, which provide that the majority in value of the owners of a ship may determine how it shall be employed ; and it is carried to its full extent in the ancient and uniform system established in this Commonwealth for managing lands, wharves, and other real estate holden in common, by which at the meetings of the proprietors, each is entitled to vote according to his interest. What an outrage upon all principles of equality it would be that three persons, owning nine tenths of a common field, should have less right to enjoy and regulate it, than four, who owned the other tenth part ? In banks, manufacturing companies, and other associations for the management of personal property in general, the same principle is enforced, but with such limitations as are requisite to prevent one or a few from obtaining the entire control of the whole institution.

In a community organized like civil society for the protection and regulation both of persons and property, every law affecting the personal rights alone of its members should be made by a majority of them ; and every law relating merely to property ought to receive the assent of those who possess the major part of that property. Laws which affect both should have both these sanctions ; and such are most of the laws of a civilized state. Those securing the possessions of the citizens are commonly enforced by penalties extending to their persons ; and those regulating their conduct have ultimately an influence on their property. The possessors of property cannot make any disposition of it which may injure the personal rights of others, and the only way to enforce this restriction is to provide that they shall make no rule whatsoever concerning it without the concurrence of a majority of the citizens in number ; so the majority in number can justly make no law disposing of property without the consent of those who possess the greater part of it.

The presumption that laws thus made will be just is as great as can ever be attained ; for unanimity, which if attainable would obviously prevent the possibility of an unjust law, cannot be expected. But the perfection of a well constituted republic and its superiority to every other government lies in this. All laws must be general, binding the

whole people ; none can be made controlling the person or property of a particular man or class of men without their consent. Now it is highly improbable that a majority of the citizens would designedly establish unjust restrictions of the personal rights of all, because they, being themselves the most numerous, must suffer the most from them. It is equally improbable that the holders of the greater part of the property should make general laws injurious to property, because possessing more they must immediately suffer more than all the rest of the community. Here is a real, practical security. The best of us need restraint, and the surest means of inducing men in public or in private life to act justly is to make it their interest to do so. The perfect security of property is a benefit not only to those who now possess, but to all who seek to acquire it, and at once stimulates and protects enterprise and industry by protecting their fruits.

If indeed it were necessary that the whole powers of legislation should be committed to one of these bodies alone, no one would hesitate a moment to entrust them to a majority of the inhabitants of a state rather than to the holders of a majority of the property, because our personal rights are dearer to us than our possessions, and the former body would be less likely to abuse the power than the latter. But it is capable of mathematical demonstration that there is still less chance of the concurrence of both in any wrong measure, than of its adoption by either of them singly. According to the present system, each may prevent a law, but neither alone can make one ; and nobody can observe the intricacies of our statute books, the multitude of repealing, amending, restricting and explanatory acts, without feeling that the excess of legislation and not the want of it is the besetting sin of our country. Of what avail is it that the laws are stable in form, if in fact they are so constantly changing that no man can learn before hand how to regulate his conduct, if the rule of yesterday is abrogated to-day, and what was then a duty is now a crime ?

It must be recollected, however, that the senators are apportioned among the several districts according to their wealth, not directly and expressly, but only in consequence of the fact that public taxes are thus apportioned. 'The General Court, in assigning the numbers to be elected by the districts shall govern themselves by the proportion of the

public taxes paid by the said districts.' This consideration cannot fail to suggest to those, who know any thing of our history, another independent and powerful argument in favour of the present system, which was strongly urged by some members of the convention. The principle that no man's property can rightfully be taken without his consent, that in a free government taxation and representation are inseparable, was the very basis of the revolution. On this position the patriots of that day took their stand when they shook and broke the British empire; on this rock our independence was built. If the doctrine is untrue, if there is no essential connexion between taxes and representation, the ground they chose was false and hollow. Our ingenuity may perhaps discover other reasons to justify their conduct; but their reasons and their motives afford them no justification; out of their own mouths they are condemned; they were no better than lucky rebels; they covered themselves with shame, not with glory, and deserved a scaffold instead of a monument. This principle is adhered to in the constitution of the United States. Representatives, it is true, are assigned to the several states in numbers proportioned to their population; but taxes also are apportioned by the same rule; and when it was conceded to the Southern states in the spirit of conciliation, that in determining the numbers of representatives five slaves should be counted as three freemen, the inevitable consequence was not overlooked that then five slaves must be counted as three freemen in settling the proportion of taxes to be paid by the several states. These two rules were considered inseparable and adopted together. If the people of Massachusetts are ready to decide that taxes shall be apportioned among the several districts according to their population, then by the constitution as it now stands senators will be apportioned by the same rule. But they cannot wholly neglect, in the choice of legislators, the rules which they lay down for the imposition of taxes, without casting a foul blot on the memory of their fathers.

Such are the arguments adduced in favour of this part of our constitution by some of the members of the convention, which framed it. Nor is the principle confined to us. In New York it is provided that senators shall be apportioned among the several districts in proportion to the numbers of citizens contained in them having *real estate* of the clear

unincumbered value of one hundred pounds, and that no others shall vote in their election. With us the poor man has an equal vote with his richer neighbour, and the sole effect of our regulation is to give to those parts of the state, which pay most for the support of the Commonwealth, greater influence within a certain limit in one branch of the government. In South Carolina sixty two members of the House of Representatives are assigned to the several districts in proportion to their population, and as many more in proportion to their wealth.

For ourselves, however, we are free to confess that we place our chief reliance for the support of our present system, not on theoretical principles, nor on the example of others, but on the ground that it is in its actual operation a wholesome restraint on the exercise of the immense power intrusted to the legislature. It is the object of a constitution to limit and control the powers of every department of government and the sole motive for establishing two legislative branches is to make each of them a check on the other. Now this is not so effectually done, when both are chosen from the same body by the same rule; for in this case they must be exposed to the same influence and corruptible by the same means. But by requiring the consent of two assemblies constituted on different principles to every act, we diminish the power of both, and are more secure against encroachments. Both are in truth equally representatives of the people, if both are chosen according to a constitution which the people have established.

Another practical advantage of this system is that it tends to produce a just valuation of property and a just distribution of taxes. The inhabitants of the several districts are induced not to represent their property beneath its just value, because they would thus diminish their representation in the senate, nor beyond its just value, because their taxes would be thereby increased. Remove the former motive for estimating it at its full amount, you offer a temptation to fraud, which would endanger the safety of the state, and you immediately excite suspicions of fraud, which must disturb its tranquillity. But independently of all these considerations, it may be asked, if no inconvenience actually arises from the organization of the senate, and we are not aware that this is pretended, why go about to change it, thus shak-

ing the public confidence in the excellence of our institutions' and of course diminishing their stability ?*

The greatest practical evil which is found by experience to result from our frame of government is the unwieldy size of the House of Representatives, and the opinion seems to be now as general as it is just, that some remedy should be provided for it. The effect of diminishing the number to any extent would not be to exclude an equal portion of talents, integrity and patriotism ; those who possessed these qualities in the highest degree would still be chosen, and only those, who had least of them, be excluded. The larger any legislative assembly may be beyond the number requisite for the purpose of fair representation, the greater will be the proportion of inexperience and inability, of those who want the capacity or the firmness to judge for themselves, and who therefore yield implicitly to the will of another; the greater the difference between the most eminent and the least so, and of course the more commanding the authority of one or two distinguished men ; the greater will be the variety and influence of personal interests adverse to those of the public, and the motive and opportunity for the bartering of votes and all sorts of intrigue and corruption ; and the more easy it will be for a few individuals to exercise supreme power. Though the state of society among us has hitherto prevented these evils from being intolerable, much inconvenience has arisen from the perpetual fluctuation of the House of Representatives, in consequence of which individuals may procure the passage of laws, to which a majority of that body is decidedly and justly opposed, by watching an opportunity to introduce them when most of the members present are ignorant of their operation or indifferent to it.

* The constitution of Massachusetts, of which it is only modesty to say that in its fundamental provisions it is not inferior to that of any state in the union, was written by *John Adams*. His arguments in favour of it, and particularly of the organization of the senate, may be learned from the sixth letter in the third volume of his defence of the American Constitutions. All who would understand our present system should read those arguments, and it behoves him who wishes to subvert it, to begin his task by refuting them. When this is done, it will be time enough for the good citizens of this Commonwealth to believe, that the constitution adopted by their fathers, and under which they have enjoyed perfect liberty for forty years, is radically aristocratic and oppressive, or that he who wrote it, either from ignorance or malice, betrayed the cause of the people.

The excessive number of the members of this body is a necessary consequence of adhering to our ancient system of representation. By our Provincial Charter every town was entitled to send two delegates to the General Court; but this regulation was soon altered so as to allow only one delegate to towns containing thirty freeholders, two to those containing one hundred and twenty, and four to Boston alone. Towns containing less than thirty freeholders might unite to choose a delegate. In this mode the equality of these corporations was in the main preserved, by sacrificing the equal rights of the citizens. When the revolution took place the towns retained their former organization, and exercised the supreme power, seeming to think that it reverted to them as corporations on the dissolution of the government, and not to the body of the people. Hence delegates from these bodies constituted the Provincial Congress, and afterwards the House of Representatives, who with a council appointed by themselves exercised legislative authority, so that at the time when our constitution was formed, the Commonwealth was nothing more than a confederation of sovereign towns, and a number of the smallest, containing together a very inconsiderable portion of the property or population of the state, might choose a majority of all the officers of government elected by the people. Long habituated to this unequal system, many were more jealous of the dignities and prerogatives of their respective towns, than of their own rights and liberties as men. The inhabitants of one town, for instance, when the constitution was offered for their acceptance, demanded that instead of requiring any property as a qualification of electors, the right of voting should be given to 'every male citizen, who was a friend to the independence of the state, and of sober life and conversation, *to be certified by the selectmen.*'

The convention deeming it expedient, perhaps at that time necessary, to adhere to the established usage of allowing each town to send a representative, but at the same time determined to give every citizen an equal voice, and having assumed one hundred and fifty as the number which should in future authorize the election of one delegate, adopted the only rule for their increase which is consistent with the equal representation of the people. If the number of inhabitants in any town were simply to be divided by one hundred and

fifty in order to ascertain how many representatives it should send, there might remain a surplus of any number less than one hundred and fifty; and these remainders must be taken to be on an average seventy-five. Suppose then ten towns, in which the surplus numbers taken together amount to seven hundred and fifty, were to be united into one town, they might send five representatives more than before their union; and thus it is evident that the same number of persons would have more reprsentatives if contained in one large town, than if inhabiting several small ones. To remedy this inequality, seventy-five, the average surplus, is added to the original number, one hundred and fifty, so as to require two hundred and twenty-five additional inhabitants for the choice of every representative more than one. Thus all citizens are, as they ought to be, equally represented; but all towns are not so, and what good reason can be given why they should be? Such is the only mode which could be adopted for reconciling the rights of the people with their prejudices, and the inconvenience of a large House of Representatives is its necessary consequence. Nor could we avoid this consequence even by sacrificing altogether our rights as men to municipal prerogative. If each town chose but one delegate, there would be about three hundred, far too many; yet in that case a hundred and fifty men in one town would have as great a voice in the House of Representatives, as forty thousand in an another; and every attempt to diminish this monstrous inequality would still increase the number. To remedy this evil some mode of districting the Commonwealth or of classing towns must be adopted, and the only question will be, whether that mode which will establish the most perfect and equal representation of the people be not the best. It is no longer an untried method. Districts are formed for the election of members of Congress, and no mischief or complaint has ever resulted from the system.

As to the number of which the House should consist, we have only to say, that if the framers of our constitution were right in assuming that sixty members are competent to all the purposes of legislation in this Commonwealth, and we believe their opinion has been confirmed by experience, then the utmost number of which that assembly can consist, to avoid the impropriety of containing a number sufficient to form two quorums, is one hundred and nineteen. The first House of

Representatives organized under the constitution of the United States contained about sixty members; and it has not been surpassed in wisdom, integrity, and firmness by any of its more numerous successors.

Objections have been made to the requisition of a certain amount of property as one qualification of voters and of officers of the government. A similar qualification however is required either in the electors or the elected in most of the United States; and in the constitution prepared for Virginia by *Thomas Jefferson* to be submitted to the convention intended to be called there in 1783, it is expressly provided that every voter must possess a freehold of a certain value. There is indeed no civilized society where every person is allowed to vote, and in determining who shall possess this power, as in every other limitation of the rights of individuals, the government must proceed by general rules. Minors are excluded, though there are minors in every respect equal to some men of full age, because as a general rule they have not sufficient discretion. So if it can be predicated of any other class of persons that for want of information or independence, they would in general make a bad use of the right of suffrage, the people may refuse it to them. The justice and propriety of any particular limitation depends on the state of society in the place where it is adopted. If, as this is now constituted among us, it may be asserted that a majority of those not permitted to vote by our constitution for want of sufficient property would abuse the right if they possessed it, then the regulation excluding them does no injury even to the smaller number excluded by its general operation who would make a good use of that right; for if the votes of this minority were by the abolition of the general rule admitted, they would be more than counterbalanced by the larger number of corrupt votes admitted at the same time.

In an agricultural state, where property is distributed with great equality, its possession need not commonly be required as a qualification of voters. But in a commercial or manufacturing country containing the extremes of poverty and wealth, to grant the power of voting to a class of men, most of whom depend on others for subsistence, affords to them a temptation to sell their rights, and to the rich the temptation and opportunity to buy them, thus corrupting both, and giv-

ing the wealthy an undue weight in comparison with the middling classes of society. And after all, the latter, those who do not live without exertion, yet whose exertions are fully competent to their support, who are neither so wealthy as to be tempted to the corrupt purchase of power, nor so necessitous as to be dependent on another's will, are the men whose rights are to be most carefully guarded, and to whose hands the supreme power may be committed most safely. They are in this country the mass of the people, the stay and the strength of the government, the very bones and sinews of the state.

But though every individual on entering society surrenders to the community the right of controlling his person and property by general laws, so far as is requisite in the opinion of the majority for the public good, no man does or can yield to others the right of controlling his conscience; and any provisions which do in fact restrain the consciences of men are oppressive and unjust. Is any part of our frame of government liable to this reproach? It provides that every member of the executive and legislative bodies shall declare his belief of the Christian religion, a general phrase adopted with the intention of including all the inhabitants of the state; and if it actually does so, it is evident that no one can be injured by it. Now suppose the majority of the electors of each of those officers are determined not to vote for any but a Christian,—and no one will deny the right of every voter to be influenced by this consideration if he pleases,—there surely can be no injustice in their expressing this determination beforehand. Until then in some part of the state those empowered to elect a member of the executive or legislative departments prefer one who will not profess his belief of the Christian religion, a case whose occurrence can hardly be supposed, this provision, whatever difference of opinion may exist with regard to its correctness in theory, must be admitted by all to be nominal and inoperative in practice. But why introduce a clause totally inefficient, why make any profession of faith, though it be the faith of the whole people, a part of their political charter? We acknowledge we know no good reason for it; but there it is, and the question is not what should be inserted in a new constitution, but what should be expunged from this. It is one thing to abstain from a profession of Christianity when the occasion does not require it, and another and totally different thing when such

profession has been unnecessarily and officiously made, solemnly and deliberately to retract it. Nothing should be inserted in a frame of government which is not shown to be useful, nothing erased which is not shown to be injurious; and in both cases mere inoperative speculations are unworthy of regard, in comparison with those efficient rules by which principles are brought into practice.

Similar remarks are all we could urge in favour of the single word *Protestant* in the third article of the bill of rights; but the substance of that article admits a different and more complete defence. It authorizes the legislature to enjoin on all subjects an attendance upon the instructions of the public teachers of religion, if there be any on whose instructions they can conscientiously and conveniently attend. It is a solecism to say that this clause violates the rights of conscience, since they are expressly excepted from its operation. Without the concluding words, indeed, it might be unjust and tyrannical, but these render it at once sound in principle and nugatory in practice.

But the most important and useful provision of this article, is that which directs the legislature for the purpose of 'securing the good order and preservation of the government, to require towns, parishes, precincts, &c. to make suitable provision, at their own expense, for the worship of God and the maintenance of public teachers of piety, religion, and morality; provided that these several bodies shall at all times have the exclusive right of electing their respective teachers, and of contracting with them for their support and maintenance.' Is this a restraint upon the conscience of any man? On the same principle that the constitution empowers the legislature to command military musters or town meetings; it may also authorize them to require the citizens to assemble for any purpose whatsoever which may be conducive, in the opinion of a majority of the people, to the public safety, and which does not infringe the rights of conscience. It is manifest that those who choose their own teacher, that is the majority in every parish, have no ground to complain that their rights are infringed. But the minority, who cannot conscientiously hear him, are not they injured? How?—They are not required to hear him; nor can it be an injury to them that doctrines, which they do not believe, are listened to by others, who do believe them. But then they are

obliged to pay.—Ay, this is very apt to wound tender consciences.—But seriously, it is said, to pay for the dissemination of tenets which in their opinion are false, and must drag to everlasting perdition all who embrace them. Here lies the fallacy of the whole objection. They do not pay for the dissemination of any particular tenets, nor to promote the happiness or the misery of men in another world, but to render them better citizens in this; 'to secure the good order and preservation of the government.' The constitution has no other object; it deems it entirely indifferent what system is adopted, and therefore gives all the members of each parish an equal voice in determining whom and what they will hear, which, of course, leaves the decision with the majority.

It is urged, however, that the burden is unequal, and different individuals, paying the same tax, do not receive the same equivalent, since only those who attend enjoy the benefit of the instruction. This is a strange objection in the mouths of those who urge it. According to them, this benefit possessed by others, this equivalent, of the want of which they complain, is neither more nor less than guidance on the road to ruin and instructions how to attain eternal misery. The true answer, however, is, that the equivalent proposed by the government for this tax is not the mere religious improvement or the future happiness of those who attend public worship, but the security which society derives from the establisment of institutions, where those who can conscientiously attend may be periodically and frequently reminded of their duties and their accountableness as moral agents; and this security is equally enjoyed by all.

The establishment of public worship at the expense of the community is justified by the same reasons as that of public schools; indeed churches, so far as they are civil institutions, may be considered as schools for the adult. All the inhabitants of a school district are obliged to pay a tax for educating children, though the choice of a teacher and of the system to be pursued depends on the will of a majority alone. The minority may disapprove of the man or the system selected; some may think with Anacharsis Klootz that any education is a violation of the laws of nature, and that man has as much right to grow up without restraint as other animals, the obvious consequence of which would be to make him resemble them; some may insist that corporal punish-

ment ought never to be inflicted : and others again deeming every text of scripture a literal rule of conduct, may really have conscientious scruples about sparing the rod ; yet if for these or any other reasons they refrain from sending their children to the public schools, they are not therefore exempted from contributing to the support of them. Of two men paying the same tax, one may be a solitary and hopeless old bachelor, and the other the father of a New England family sending his ten children to school every morning. Yet here is no injustice ; the difference arises from circumstances, for which the Commonwealth is not responsible, and is merely incidental to the main object of the law,—the peace and security of society, which is an equal benefit to all. Were these ten boys, for want of education, to grow up rogues, they would be quite as likely to plunder the old bachelor as any other man.

The oath abjuring the authority of every foreign potentate has been objected to, in our opinion unjustly, as a violation of the rights of Roman Catholics. The man who thinks himself bound to obey the dictates of a foreign sovereign ought not be a magistrate among a free people, who must be exempt from the control, direct or indirect, of every earthly power not established by themselves. By complying, in the administration of the government, with the commands of a stranger, whether for conscience sake or from any other motive, he infringes the rights of his constituents and the fundamental principles of liberty. That the object of this oath was to renounce a principle inconsistent in its tendency with the independence of the state, and not to condemn the merely speculative doctrines of the Catholic religion, is evident from the instructions given to the committee who reported it. They were directed ' to form a declaration or test, wherein every person, before he takes his seat as a representative, senator, or governor, or enters upon the execution of any important office or trust in the Commonwealth, shall renounce every principle (whether it be Roman catholic, Mahometan, deistical, or infidel) 'which has any the least tendency to subvert the civil or religious rights established by this constitution.' When we consider that *Samuel Adams* was one of this committee, we shall not wonder at the energetic and almost indignant language in which every thing like foreign control over the citizens of this Commonwealth is abjured.

But though this oath is perfectly defensible upon principle, we should not regret its erasure, since its length renders it really inconvenient, and the dangers against which it is designed to guard are at this day altogether imaginary.

The utility of a Court of Chancery, and the propriety of making it entirely independent of any court of law, were amply discussed in our last number. To complete the system and prevent a clashing of jurisdictions, a Court of Errors should perhaps be established, to which an appeal may lie both at law and in equity; and this ought to be as stable and independent in its structure as the tribunals, whose judgments it revises. We fear, however, that no definite plan for the accomplishment of this object can be formed, which would receive, at present, the approbation of the people; and that they must suffer a little longer the inconveniences necessarily resulting in a wealthy and commercial community from the want of an equitable jurisdiction, before they will consent to make so great a change in our judicial system, as would be requisite in order to establish one on a proper footing.

It is of the utmost importance to provide some mode of making future amendments in the constitution. This will obviate the necessity of deciding immediately those questions on which a great diversity of opinion prevails, and be a pledge of peace and unanimity in the convention. Should some new and important provision be recommended, and be found to excite the strenuous and decided opposition of a considerable portion of the public, it may be deferred, and introduced when its utility is better understood. If there be any existing article which some deem beneficial, and all acknowledge to be harmless in its present application, but from which we apprehend some possible inconvenience hereafter, it may remain to be removed when the danger is more distinctly and more generally perceived. As the object of a constitution is to limit and control the several branches of government, the power of changing it ought never to be entrusted to the government itself, but retained, as far as it can be done, in the hands of the people. Even the unanimous vote of the legislature ought not to change it, for however they might differ on other subjects, the members might very naturally be unanimous in wishing to remove every restraint on their own power; and might render our constitution mere waste paper, and assume the same su-

premacy as the British Parliament, which, under pretence of being omnipotent, has repeatedly degraded its high character by passing bills of attainder, and *ex post facto* laws, thus outraging the plainest principles of nature and reason, which require that no act of the meanest moral agent should ever be punished in any other manner than according to standing laws made and promulgated before its commission.

The utmost authority, which can safely be delegated to the General Court is that of proposing amendments to the constitution to be ratified or rejected by the people in their primary assemblies. But if this mode be adopted, and nothing more than a bare majority of the votes be required for their ratification, the government might watch an opportunity when the people were lulled into indifference, or blinded by some momentary passion or prejudice, to obtain the extension of its power; and it would be careful never to propose any alteration, which could tend to diminish it. Or should the government propose amendments by a simple majority, the people would be harassed with every fluctuation of party by repeated propositions to change the constitution, and in this way their opinion of its stability, in which that stability itself consists, would be greatly shaken. By requiring the concurrence of two thirds of both branches of the legislature and two thirds of the people in every amendment, we should be sufficiently secure against any undue augmentation of the powers of government. This is analogous to the provision in the constitution of the United States, which requires the assent of two thirds of both houses of Congress and three fourths of the states to any amendment. But if experience should show the powers already given to the legislature to be too extensive, we should have no fixed remedy, for a proposition to diminish them can never be expected to come from that body itself, but must originate in some other assembly. Hence some may think it necessary to provide a mode of calling future conventions, such a mode as shall prevent their being called lightly or hastily. Perhaps the best would be to establish as a general rule the plan adopted by our constitution for a particular year; to require that the question whether a convention shall be holden be periodically or at the will of the legislature submitted to the people, and that two thirds of the votes shall be deemed to decide it in the affirmative.

It has been said that to require two thirds of the votes in any case interferes with the right of the majority to decide every question. But when the rule is established by the majority itself, this is not so. Any person may wish some particular amendment to be made in the frame of government with the consent of two thirds of his fellow citizens and not without it. He may think the stability produced by requiring this number in all cases to be more beneficial than the amendment contemplated by him, whatever it be; and if one man may hold this opinion, a majority may do so too. It is but a voluntary condition of their own vote. We will that there be a convention if two thirds of the votes are in favour of it, otherwise not. Why may not this be the will of the people; and if it be, why may they not express and enforce it? It is urged, however, that if a majority are competent to establish the rule, a majority may at any time repeal it, and will do so whenever it interferes with their wishes. Experience does not warrant this assertion. It is common in legislative assemblies to adopt certain standing rules, and provide that they shall not be dispensed with unless by the consent of two thirds of the members. A majority may repeal this provision in order to obtain some object, to which two thirds will not consent, but they never do so. So in many social and literary societies no new member can be admitted, if there be a single vote against him; yet the majority do not, in fact, deprive individuals of the right of veto, for the purpose of admitting some favourite.

The rule is not designed to restrain the deliberate will of the people, but to make them deliberate; to interpose a pause between the purpose and the execution, and remind them that they should not sacrifice the security and permanence of their public institutions to the wishes of a moment. Admitting that the majority may abolish the constitution and the rule together, they will not do it. A people who have deliberately and publicly laid down this limitation of their conduct; if they have any regard for the opinions of mankind, or any respect for themselves, will not overleap it. However, therefore, it may be urged in speculation that such a rule can have no effect, because it may at any time be abrogated, we know that in fact it has an effect, and an admirable one. It is glorious to see the majority of a free people, in all the heat of political contest, or flushed with

recent victory and conscious of uncontrollable power, folding their hands and bowing their heads before the majesty of the laws, which themselves have established.

It has been suggested that those who are or expect to be members of the General Court ought not to be chosen delegates to the convention, because their interest is in some respects adverse to that of the people, and might warp their judgments, though it should not shake their integrity. They may desire to destroy the present organization of the Senate so as to prevent the two houses from controlling each other effectually, and thus remove this restraint on the power, which they hope to wield. They may be disposed to make the legislature very numerous, in order to be more secure of a seat in it. They may wish to confer upon it, as far as possible, the power of changing the constitution, that the means of extending their authority may be in their own hands. The danger is perhaps exaggerated; but we admit these suggestions to be so far reasonable, that of two individuals in all respects equally qualified, he should be preferred who is not likely to hold a seat in the legislature; though this certainly cannot be deemed a sufficient motive for the peremptory exclusion of men distinguished by their integrity, abilities and independence of character.

ART. XVIII.—*Percy's Masque, a Drama, in five acts. From the London edition, with alterations.* New York, C. S. Van Winkle, 1820. 12mo, pp. 150.

THIS work appears, from the title page, to be printed from a London edition, but we learn that the author is a countryman of our own. We are glad to meet with so respectable a production in this department of literature from the pen of a native writer; indeed we are pleased to light upon any modern tragedy in the English language so well worthy of notice. Whatever may be the cause, it is certain that late attempts in that species of composition, with few exceptions, have failed. Few writers, indeed, of any note have ventured upon it, and it must be confessed that the discouragements are many and serious. In the other kinds of poetical composition, the author writes for those whose minds have many habits in common with his own—he writes to the contemplative, to the

learned, to those who have leisure to follow him in his reveries, and accompany him till he pursues his favourite disquisitions to the end. But the tragic poet has not only to deal with these, but with a more vivacious and impatient race of beings—it must be his aim to please the many as well as the few—he can offend neither with safety. His piece may be well received in the theatre, but if destitute of those higher qualities which should recommend it to the more polished and enlightened part of society, the multitude soon grow weary of the bauble, and it comes first to be despised, and then forgotten. On the other hand, he may frame his work according to the most judicious and sensible rules of criticism; he may introduce many fine situations and much beautiful poetry; he may produce what shall be called a pleasing composition; still he may have failed to touch those springs which move the hearts and kindle the imaginations of all, and he goes off with the cold and equivocal compliment of having written a good closet tragedy. It is perhaps more difficult and requires intenser effort to bring the mind to a proper state for writing tragedy, than for the other kinds of poetical composition. In those we commune with the author; he describes to our imaginations, he appeals to our feelings in his own favourite way, and these peculiarities interest us. But the dramatic poet must, so to speak, put off his identity, and put on the characters which he describes. He must bring before him the personages of his plot, and see their faces and hear their voices in his retirement; he must do more; he must enter into their bosoms, he must feel with their hearts and speak with their lips. Now, it is obvious, that all this demands great versatility of talent, as well as a state of strong and peculiar mental excitement. It demands, too, a great sacrifice of the self love and vanity of authorship. Many a flight of imagination, many an elegant refinement, which the author would be glad that the world should have an opportunity to admire, but which have no special connexion with the business of his play; stately phrases and pretty epithets, which suggest themselves to his mind and win upon his partiality, but which would ill suit the ease of dialogue or the language of passion, must be rigidly excluded. Every thing that interrupts the interest, every thing that destroys the scenic illusion, all that is merely fine and showy must be retrenched without

mercy. It cannot be objected that these rules would make the writer tamely and coldly correct—on the contrary, they do not forbid, they even require that the diction and sentiments should be highly glowing and impassioned—but they still require, what is the best means of attaining to these qualities, that he should never forget his subject. With all these difficulties in their way, it is no wonder that the most celebrated English poets of our day should choose rather to exert their talents in those walks of poetry, which leave them more at liberty to move in the free and natural current of their own feelings and fancies. It may be doubted, too, whether the general manner of most of these writers, greatly superior as we think it to the cautious and unimpassioned style which immediately preceded it, is not yet too quaint, fanciful, and over-wrought to succeed well on the stage. Be this as it may, tragedy is a noble province of poetry, demanding great powers of invention, deep knowledge of the human heart, and a strong and manly judgment; and proud would be the triumph of him who, at this day, should overcome its difficulties, and take his place by the side of those great and ancient masters of the drama, whose race seems to have passed away from amongst us, like that of the giants who lived before the flood. It were glorious to succeed—it is not dishonourable, however, to have failed.

It would perhaps be unfair to apply the observations we have made, in their strictness, to the work before us. It does not appear that it was ever brought upon the stage, and it is fair to presume that it was not intended for representation. It is, however, to be observed, that the great principle of excellence in dramatic compositions, from which the foregoing remarks are deduced, namely, that they should be faithful and vivid copies of human life and action, applies equally to all plays, whether written for the closet or the stage.

The plot of this tragedy is suggested by the ballad of the Hermit of Warkworth, written by Bishop Percy, the compiler of the *Reliques of Ancient English Poetry;* and this ballad is printed at the end of the principal work. Henry Percy, the son of that Henry Percy, with whom Shakspeare has made us acquainted, under the name of Hotspur, was carried into Scotland while yet a child by his grandfather, the Earl of Northumberland, immediately after the sangui-

nary battle of Shrewsbury, in which Hotspur was slain, and the adherents of Mortimer routed and chased off the field with immense slaughter. In the mean time, the possessions of the Percy family are bestowed, by king Henry IV. on Ralph Neville, Earl of Westmoreland, who had rendered important services to this sovereign against the rebels. Young Percy is educated at the court of Robert Stuart, duke of Albany, the Scottish regent. Here he is instructed in all the accomplishments of the times, and in his early youth exhibits many traces of his father's spirit, which, however, seem wholly effaced as he arrives at the age of manhood, when he abandons himself, apparently without control, to all the amusements and frivolities of the court at which he resides. One friend alone, the son of that Douglas who fought by the side of his father on the field of Shrewsbury, sees through the disguise of the light flutterer in the sunshine of fashion and gallantry, and beholds him languishing in secret for his native land, and laying plans for the recovery of his hereditary honours; and, in the adventures of the chase, finds occasion to admire the heroic and generous qualities of his character, his strength of arm, his love of hardship, and contempt for danger. At length he withdraws from the Scottish court, and repairs in disguise to the castle of Warkworth, the ancient seat of his family, but now the residence of the Nevilles. The story of his appearance and reception are thus related by Eleanor, the daughter of the Earl of Westmoreland.

> As for that youth—few words
> Will sum his story. Three months since, surprized
> By a wild night, while journeying near these walls,
> He begged a shelter. Voice or face or mien—
> Fate willed it—touched my sire, who questioned him.
> Fortune, he said, smiled fairly at his birth,
> But fatal feuds, mischances long to tell,
> Robbed him of friends and substance when a child,
> And ever since his adverse fate had frowned.
> Cheered by kind looks and courtesy, he asked,
> Among the hunting train, some humble post.
> Rare talents in the art so cherished here
> Had won him rank and favour.

He takes the name of Arthur, is appointed chief huntsman to the Earl, and has the good fortune, by his bravery, to rescue Eleanor from a band of moss-trooping Scots, who had seized her captive, as she had incautiously strayed with one of the damsels of the castle, on a calm evening, to some distance from the battlements of Warkworth, and who were carrying her to the border. We can make room only for the conclusion of the story of her captivity and deliverance, which she relates to a female friend.

> I found myself upon the moonlight bank
> Sustained by Agnes; felt, upon my cheek,
> The night breeze freshened by the gushing rill
> Which Arthur from his casnet sprinkled o'er me.
> No hostile sound disturbed us; tranquil, pale,
> And sweet all seemed, till, on the runnel's brink,
> Close at my feet, I spied two grim marauders
> Mixing their life-blood with the bubbling stream.
> That night he gave me to my mother's arms,
> And such a night, such agonies of joy,
> I hope no more to see.

This adventure, together with the noble spirit, fine accomplishments and courtesy of the young huntsman, breaking out with a splendour far above his station, make an impression upon the gentle heart of Eleanor, which her pride will not suffer her to acknowledge even to herself. In the mean time, Arthur, who has no such restraint upon his feelings, suffers himself to become deeply enamoured of the fair being whose life and honour he had preserved. His passion, however, does not make him forget the great object for which he left the Scottish court. In his disguise of huntsman he traverses the ancient domains of his family; he makes remarks on the strength of the country; he studies and searches out the spirit of its inhabitants. He takes occasion to pursue the chase far among the hills, and passes many nights among the hospitable cottages, to whom he speaks of the Percys, and artfully revives their old and unextinguished affection to his house. It is not long before he is joined by young Douglas, who brings a body of two hundred men, whom he conceals in a wood on the Scottish side, where they wait his orders, and at the intercession of Arthur is assigned a place among the servants of

Westmoreland. About this time, the king, attended by a train of twenty nobles and two hundred knights, arrives at Warkworth, on his way to Berwick. This is deemed by Percy a favourable opportunity to put in execution his enterprize of recovering the possession of Northumberland. He finds means to gain over several of the chieftains of the country, the old adherents of the Percy family; and a party of conspirators assemble, at night, in a vast cavern at some distance from the castle, where the design of the meeting is thus explained by the youthful adventurer.

> In honour of the king
> The Earl to-morrow holds a mighty hunt,
> And grants me leave at night to show a masque.
> Arms and the keys to that intent are mine.
> My lords, this cavern, seemingly barred up
> By yon piled rocks, issues beneath the castle,
> Commanding, by a range of vaults unknown
> To its new lord, the halls and posterns scooped
> For special purpose in my grandsire's wars.
> Through this what power we please may be conveyed
> Into the walls; environ them without,
> And every gate, ward, avenue, is ours,
> Even to the hall of state, where, high in pomp,
> The king and nobles feast. The castle won,
> Whose voice shall dictate? Will they for their lives
> Cavil on nice conditions? Call my lands
> A hard condition for a monarch's ransom?

On his return to the castle, he beholds a light burning in the tower of Eleanor, which was once his mother's oratory, and to which he knows the secret passage. He ascends, surprises her at her devotions, and does not leave her, till, without letting her into the secret of his name and family, he succeeds in convincing her of the nobility of his extraction, and is suffered to believe that he does not love her with a hopeless passion. The hour of putting the plot in execution at length arrives. Mountfort, Bertram, Bardolph, and other chiefs of Percy's party, marshal in the cavern a formidable body of their followers, who have arrived in the disguise of foresters and friars, coming in at different times, and by different and unfrequented paths. In the mean time the feast is spread in the halls of Warkworth, and the masque

planned by Arthur is called for. A phalanx of spearmen, with Percy and Douglas in the midst, are ushered in with the sound of minstrelsy. Percy advances, lifts his beaver and speaks.

* * * * * * * * *

Too long, too long a Masquer, Arthur comes
Stripped of disguise, this night to execute
His father's testament, whose blood lies spilt,
Whose murmurs from the tomb are in his ears,
Whose injuries are treasured in a scroll
Steeped with a widow's and an orphan's tears,
O'er that curst record has my spirit groaned
Since dawning reason, in unuttered anguish.
When others danced, struck the glad wire, or caught
The thrilling murmurs of loved lips, I roamed
Where the hill-foxes howl and eagles cry,
Brooding o'er wrongs that haunted me for vengeance.
K. Hen. What tune may this be, Uncle?
West. Faith, my lord—
Per. For I have been an outcast from my cradle,
Poor, and in exile, while an alien called
My birth-right home. Halls, founded by my sires,
Have blazed and rudely rung with stranger triumphs.
Their honourable name have cowards stained;
Their laurels trampled on, their bones *profaned.*
Hence have I laboured, watched while others slept,
Known not the spring of life, nor ever plucked
One vernal blossom in the day of youth.
The harvest of my toils this night I reap,
For death, this night, or better life awaits me.
Before my lord the king I stand, and claim
Northumberland, my just inheritance,
As Henry Percy, son and heir of Hotspur.
(All start.)
West. Percy!—Hotspur!—
K. Hen. Impossible! impossible! great heaven!
It cannot be.
Lady West. 'Tis but in sport, my lords,
'Tis but the play.
West. What means this, boy?—But sport?—
Speak, or, by heaven—
Per. Peruse yon steely circle,—
Do those dark faces seem familiar?
West. These are the warriors of the Bloody Heart,
And this the son of Douglas.

All is now tumult and confusion. Westmoreland throws open a postern to give the party an opportunity to escape, but finds it guarded by armed men, he then demands permission of the king to charge the spearmen, but Percy raises an ivory horn suspended by his side, and sounding it three times, is answered, successively, by Mountfort from under the walls, by Bertram from the armoury above, and by Bardolph from the four corners of the castle. Douglas then gives a signal to his clansmen to retire, and the two friends are left alone amidst the royal train. After an affecting appeal to the compassion and generosity of the king, in which he touches on the former services and late misfortunes of his family, he kneels, and claims, from the hand of that monarch, to whose sacred person he swears never to offer violence—death, or the restoration of his inheritance. Henry, softened by his submissive manner, commands him to rise, rebukes him gently for the desperate enterprise in which he had engaged, informs him that he had already sent his pardon to Scotland, and renders back to him the ancient honours and possessions of his house. The Earl of Westmoreland is advanced to the title of Marquis of Montacute; and, to conclude, the king bestows the hand of Eleanor on Percy.

Such is the outline of the story—not encumbered with any underplot—not overcharged with incidents nor yet so destitute of them as to be without a considerable portion of life and interest. It is likewise sufficiently probable for the warlike and violent spirit of the age in which it is supposed to have happened, and the contrivance of the subterraneous passage to the castle, though a common resort in novels and plays in cases of difficulty, is, however, managed in a manner rather new. But the greatest fault of the plot lies, we think, in making the hero of the piece, whom the author, in order to secure our sympathy with his misfortunes or successes, ought always to bring us to respect,—act, throughout, with submission, what we should call a treacherous and dishonourable part towards the Earl of Westmoreland. Soliciting charity with the appearance of want and suffering, relieved by the compassion of that nobleman, taken into his service, raised into favour, and honoured with his confidence, he takes advantage of all this generosity to strip him of his possessions--possessions fairly won, the forfeited estates of a

discontented and dangerous chieftain, who had more than once risen in rebellion against his sovereign, and whom Westmoreland had helped to crush. It is true that the Earl loses nothing by this circumstance, and is even made a gainer by being raised, in consequence of it, to higher rank—but this is merely the bounty of his sovereign, and was no part, for aught that appears, of Percy's plan.

There is no powerful development of character, but the characters are consistent and well sustained. The conflict between love and pride in the breast of Eleanor, and the artifices she employs to conceal her passion from herself and others, are described with considerable success. There are many things striking, but little that is affecting—no displays of strong passion or intense feeling. The dialogue is spirited, and generally elegant; it has many beautiful and vigorous passages—passages which, if they are, as is said, the first fruits of the author's genius, give fair promise of the mature harvest. The soliloquy of Percy, at the opening of the fourth act, as he stands in the twilight, at the cavern's mouth, and gazes on the dying glories of the west, is full of nature and poetry. There is occasionally a stiffness in the language, and too great a license of inversion to suit well with the flow of dialogue. Indeed, if we might be permitted to interpose our humble judgment in this matter, we should say, that most of the tragedians in our language, for the last hundred years, have adopted a diction much too florid and stately, and too far removed from the common idiom of our tongue. The pompous and declamatory manner of Rowe, and his unvaried pauses, have been held up as the model of tragic style; but for ourselves, with all the negligence of which Otway is accused, we prefer a single page from one of his tragedies, without even considering any other quality but the style proper for such compositions, to all that Rowe ever wrote. The tragedians of the early English stage were above this puerility; or, if they fell into it occasionally, it was by no means their usual manner, and those passages which are infected with it are allowed to be their worst. The truth is, that this is not the dialect of feeling—dress it in that borrowed garb and you change its nature. Our conversation is not crammed with gaudy and swelling epithets, and when we read or hear what is supposed to be a representation of conversations passing amid scenes of great interest or impor-

tance, the free use of ornaments like these shocks us as unnatural, and vexes us as tedious ; the illusion of reality is so far broken, and we are diverted from the subject to think of the author. We cannot speak much more favourably of those poetical inversions, as they are called, which are so liberally employed by some writers in dramatic poetry. Where they are not of the easiest and most familiar kind, they strike us as something harsh and unexpected. We have always doubted whether those bold inversions, which, if they were not first introduced into our verse by Milton, are certainly more frequent in his poetry than in that of any one who wrote before him, are any more to be imitated than the Hebrew, Greek, Latin, and Italian idioms, and others, of which he made such free use ; indeed they are themselves a foreign idiom—the idiom of the learned languages. It is difficult to see any apology for admitting them into a kind of writing, the mechanism of which presents so little difficulty as blank verse, and in which they are so easily avoided ;—although something perhaps may be occasionally allowed for the exigencies of rhyme. It is gratifying, however, to know that these licentious distortions of our language are dropping out of use ; but in a species of composition, professing, like the drama, to be a copy of the language in which the ordinary communications of life are held, and where they are inexpressibly awkward and unnatural, it is astonishing to think that they should ever have prevailed.

We think that the author of Percy's Masque is to be congratulated on having escaped so well the florid and declamatory manner, with so many celebrated and seducing examples before him. We hope, however, that should he continue to cultivate this department of the drama, he will be led to study a style still more idiomatic and easy, and, particularly, (for here he has sinned most) with fewer capricious departures from the natural construction.

We can assure the writer that his work is favourably received among his countrymen. There is in our country a numerous class, not only of readers, but of men qualified to judge of the merit of such works, and who have both the power and the will to create a solid and extensive reputation for such as are worthy of encouragement.

ART. XIX.—*Life and Letters, together with poetical and miscellaneous pieces of the late William Person, a student of Harvard University.* Cambridge: Hilliard & Metcalf. 1820. pp. 252, 12mo.

WE took up this volume without much expectation of pleasure or instruction. The life of a young man, cut off in the midst of his pupillage, seemed to promise little else than tales of the school and play-ground. Indications of early genius there might be, and examples of docility and diligence fit for other youth to imitate. But that there should be any thing in which the generality of adult readers would take much interest, or any thing of consequence enought to justify the publication, we could hardly suppose. The lives of merely literary men have sometimes been thought to be too barren and monotonous. What then should be said of the life of one, who had not finished his preparatory course, nor even advanced far enough to make choice of a profession? Nor did we build much greater hopes upon the poetical and miscellaneous pieces, said to be contained in the volume. Considered as the compositions of a learner, they might be entitled to great praise; they might be such as would be read with surprize and delight at a school examination; they might even be much more than this, and discover a mind always far in advance of the stage which it had reached in education. But, after all, was it to be expected that they could be any thing more than exercises, designed to strengthen and prepare the faculties for future and more serious exertions?

These were our thoughts, and, as we were not promised a story of a prodigy, of an admirable Crichton, or a Barretier, it may well be supposed that we did not begin to read with any great hope that our time was to be well employed. It has proved otherwise, however; and if it be useful and profitable, as it certainly is, to old as well as young, to contemplate virtuous resolution struggling with difficulties, pursuing the noblest objects with a courage which an unshaken trust in Providence only could sustain, and at last arriving at the end which at first seemed unattainable; if manly strength of character, united with the finest sensibility, may deserve and reward attention, we may safely recommend this book to all who take delight in seeing the affections and the moral

qualities called into action, and can love and admire excellence under whatever circumstances, and at whatever age it may appear.

There is something of a romantic and mysterious interest blended with the history of this extraordinary youth; in consequence of his having been one of those who, by the fault of their parents, come lawlessly into life. It too often happens that the innocent offspring, in such a case, is made to bear the evil and disgrace, while the guilty parties remain concealed, and as the writer of this memoir well remarks, 'to avoid disgrace and degradation, do what renders them worthy of a punishment still more severe.' Person, it seems, was deserted by both his parents, and never acknowledged by either. He was born in December, 1793—and in the October following was placed in a respectable family in Andover. Four or five years afterwards he was put to school under a private teacher in that place, with whom he made rapid progress in the studies proper to that age. He was anxious, as it was natural he should be, to know the names and abode of his parents; but his inquiries were evaded, and he was left in that state of suspense, the painfulness of which, to a susceptible mind, may well be imagined. To be an orphan is misery enough. But to be ignorant of the authors of our being, to be uncertain whether they are among the dead or the living, near us and often seen and conversed with, or far off and studiously shunning our sight, to feel alive and unconnected amidst the mighty throng of men; and to have no object whereon filial tenderness may expend itself; this must indeed bring keen anguish to the soul of him, who is thus painfully distinguished. Person, while yet a pupil at Phillips Academy, in one of those melancholy hours, of which we may well suppose there were many in a life like his, thus describes his grief, in reply to the supposed inquiry of a compassionate stranger:

'Stranger, why that face of grief?
Why those tears, that ask relief?
Is thy heart by anguish torn?
Art thou left alone to mourn?—
Kind inquirer, I would tell thee
All the woes, which have befel me;
But the tale would tend to weary;

Thou hast told it in thy query.
Thus briefly let my griefs be known—
In the world I'm left alone ;
No kind father to protect me,
No fond mother to direct me,
Sister, brother, all denied me ;
Can aught of deeper woe betide me ?—' p. 12.

In the following anecdote we have another proof that the want of the parental relation was ever painfully present to his mind, or that at least the slightest circumstance could bring it to his recollection.

' Soon after his removal to Providence, at which time it will be recollected he was about eight years old, he walked by the side of a gentleman into a neighbouring church-yard. While they were looking at the grave-stones and epitaphs, he said to his companion, " If I were to die, who would there be to erect a monument to my memory—and if they did, what would they put upon it ?" He paused for a moment, and added, " William Person, the son of——nobody." ' p. 44.

But let it not be supposed that he was so ungrateful as to cherish these dark and gloomy feelings. His prevailing disposition was cheerfulness. His virtues gained him many friends, whose kindness seems to have touched his very soul. On every occasion, when his path was thus brightened by a gleam of sunshine, his heart burst forth in thankfulness, first to that God, of whose constant providence he had a strong and animating conviction, and then to the friends whose benevolence made them the instruments of God's mercy. We cannot forbear here, though somewhat in anticipation of the narrative, to introduce an affecting incident in his college life, alike honourable to his class-mates and to himself. He had returned to Cambridge, after being employed during the winter vacation as a schoolmaster, in a state of such embarrassment as to make it necessary that he should leave college, and ' abandon the pursuits and hopes, which he had followed thus far with the most flattering success.' His feelings at this trying moment, and the unexpected relief afforded by the generosity of his fellow-students, may best be described in his own words. We quote from a letter to a friend in Providence.

'All my flattering prospects vanished in an instant; I saw myself sinking under the wretchedness of poverty and disappointed emulation.'..... 'Still I did not murmur, nor cast one reflection against the hand that oppressed me. Divine Providence saw fit that thus it should be, and I submitted, conscious that the Judge of all the earth would do right; and though I saw no other way but to abandon the course I had hitherto so successfully pursued, yet I did not distrust his grace. I expressed my feelings to no one, but my contenance sufficiently indicated my unhappiness.

'One evening after supper I came into my room as usual, and found several of my class-mates assembled there with my chum. I sat down with them, and we all joined conversation. After some time spent in social freedom, they all retired together, and left me alone. This, as you will see directly, was done designedly. I drew up the table, on which our books were laid, near to the fire, and leaning my head upon my hand, sat ruminating on my unhappy situation, till the college clock summoned me to study. My next lesson was in Livy. I found my book laid, as if inadvertently, under some larger ones. Upon opening to the spot where my lesson began, I discovered a letter, sealed and directed to me. At first sight I thought it might contain some difficult question in algebra, some ænigma, or poetical pun, which are frequently left about to try our ingenuity in answering them: but judge my feelings when, on opening it, I found it contained a one hundred dollar bill on the State Bank, Boston, and these lines:—

"Mr. W. Person,—Dear Sir,

"Permit a number of your friends to present you the inclosed, as a small proof that brilliancy of talent, (which alone sometimes generates envy,) when united to amiability of disposition, invariably gains esteem."

'It is impossible to describe the successive emotions of surprize, gratitude, and joy, which this splendid and unexpected favour occasioned: It chased away my despondence and restored my usual vivacity, and in the fulness of my heart, I poured out the purest effusions of gratitude to that Almighty power, whose providence has always been my safeguard and support, and who brought me into those trying circumstances that he might make a more illustrious display of his goodness and beneficence toward me. How true it is that "the Lord will not forsake those who put their trust in him!" Here is an ample supply for all my present necessities, and as for the future, they are yet unknown.

'Upon inquiry, I learned that a number of my wealthy class-mates, having become acquainted with my circumstances, my re-

cent disappointment, and my necessity of leaving college in consequence, kindly contributed from their abundance to furnish me with the means of continuing here. A young man by the name of R***, from Charleston, S. C., whose superiority of talent justly gives him the first rank in our class, was the principal agent in procuring this donation, and by his means it was conveyed to me in the manner before described. To him therefore as the representative for himself and fellow-donors, I immediately addressed a billet, containg the "simple expression of my gratitude. as a sincere though inadequate return for their distinguished liberality; rendered still more acceptable by the disinterestedness and delicate regard to personal feeling displayed in its application," together with such encomiums and remarks as justice required and my feelings at that time dictated. This was answered in terms the most friendly and flattering. I have been thus explicit, that you might have some idea of my present circumstances as they are, and that you might rejoice with me in my prosperity.' pp. 33—37.

We are now to state very succinctly by what course of events Person became a member of Harvard University. In 1801, he was taken from Andover by two gentlemen, one of whom he did not see after reaching Boston, and the other he accompanied to Providence, and became a resident in his family, as an apprentice for learning the tanner's trade. When he left Andover, he was told, that he should return in a fortnight. This piece of deception was probably thought necessary, on account of his strong attachment to the family in which he resided; an attachment, which seems hardly to have lessened in the long interval which elapsed before his return. In a record made after that event, he describes this journey in a manner, which shews how deeply every circumstance had been imprinted on his mind. The piece is too long to quote, but in the conclusion he thus speaks of his past occupations, and the prospects, which were then opening upon him.

'At six o'clock P. M. I arrived at Providence. To this succeeded a tedious, long, and unremitted apprenticeship; and the promised fortnight was protracted to thirteen years! But I dwelt in the bosom of a worthy family, and am cheered by the consciousness of having served my master faithfully; and am blessed with the satisfaction of knowing, that I am beloved by his family; and possessed with a strong hope of yet enjoying the ac-

complishment of my wishes; of being agreeable to myself, and useful to my country; and to crown all, I am restored to Andover!' p. 9.

We are told, that during his residence at Providence, 'his fidelity and diligence in business were most exemplary; that his moral character was untainted; his manners and conversation singularly amiable and attractive.' He seems, indeed, to have there found a home, and to have been cordially adopted into a family circle, where a kindness almost parental made him forget awhile his loneliness. In his letters from Andover and Cambridge, he always speaks in terms of the warmest affection and gratitude of his friends at Bloomsgrove, the name given to his residence at Providence.

'Bloomsgrove, Providence, names which never occur to me, without calling up the most agreeable sensations—scenes of childhood and of youth, where I have passed so many happy hours, where I have lived so long and loved so sincerely—abodes too of those friends, to whom, if to any, I look for continued affection—for continued parental fondness and solicitude, and with whom I yet hope often to mingle in the social circle—places and friends endeared to me by such ties, can I ever forget?' p. 127.

And again, March 17, 1817.

'Every thing that concerns or comes from Bloomsgrove cannot fail to excite my tenderest interest. Never does my heart glow with such warm affection, and tender sensibility as when moved by reflecting on this beloved and to me endeared spot. 'Tis then all the sympathies of my soul expand, and in one fond embrace, encircle all its dear inhabitants, its friends, its cares, its pleasures and its sorrows. And such reflection is always produced by the perusal of your letters; and while tracing in these the successive demonstrations of your affection and solicitude, I feel the nearest approximation to the pleasures of consanguinity, and almost forget that I am an orphan.' pp. 31, 32.

His ardour for study never abated. His evenings, during his apprenticeship, 'were as faithfully devoted to his own improvement, as his hours of daylight were to the duties of his employment.' An inclination so strong and decided was not to be overcome. By agreement, he was released from his apprenticeship one year sooner than usual. He then returned to Andover. The whole of this transaction is well

described by himself, but we can only allow ourselves to transcribe what relates to his feelings on revisiting the scenes of his earliest childhood.

'I had an additional motive in visiting this place. [Andover.] It was here I first learned that I was mortal. It was here I passed my infantile years. Here were spent my happiest hours of childish gaiety. Those blissful seasons were engrossed by salutary study and playful diversions with my fellow school-mates. Unconscious of the future, I rambled, laughed, and sung, nor knew of evil. Ever grateful will be the recollection of these youthful scenes—ever dear to me this favoured villa, and dearer still its worthy inhabitants. Indescribable were my feelings, at again beholding them. My sensations were not unlike those of an exile restored to his native country after long and many years of sorrow and despondency! Thirteen years had done but little to obliterate the incidents of childhood or their connexions; and the former involuntarily revived in my memory to assist in identifying the latter. With inexpressible pleasure did I recognize the humble mansion where, for the first seven years of my life, I found a home. Its venerable inmates, with the exception of one, were still living. By them I was cordially received and made paternally welcome' p. 20.

He remained at Andover, enjoying the benefit of the liberal provision made in Phillips Academy for the support of charity scholars, till he was prepared for Harvard University, where he was admitted in August, 1816. He soon acquired great reputation as a scholar, and applied himself to study with a diligence too great for his constitution. At the close of his freshman year (July 27, 1817,) he thus writes to his friends at Providence.

'One year of my college life has almost passed, and yet I hardly feel wonted to the spot. I can scarcely realize that I am a Cambridge student. How swift is the flight of time! Indeed at every successive period of my reflection upon it, the most striking peculiarity I note of it is its greater apparent rapidity. Infancy and childhood have flitted away like meteors of the night, and the golden hours of youth, which constitute the most important and interesting scene of life, are swiftly passing to their exit! Old age will soon succeed, and then life's little drama close forever! The period of our existence is well compared to "a span," "the dream of a night," "a shadow," "a vapour which appeareth for a moment, and then vanisheth away."

Twenty-three years of the little space allotted me, are already numbered and finished. The last three or four of these, the interval between this and the time I lived with you, have been so rapid in their transit, that it seems scarcely possible they could form such a portion of my life. The scenes and circumstances of my apprenticeship are as fresh in my memory, as if they occurred but yesterday, and the forms and features of my friends and associates at that period, I trace with almost visible exactness. Circumstances, which have intervened, though of later date, are still less prominent in my recollection. With seeming surprise, therefore, I ask myself the question, "Am I, who was so recently an illiterate mechanic, already the subject of three years' continued study? Have I advanced so far as to be a Cambridge student?" Surely not the time, but the change of place and employment only give reality to the fact.' pp. 133, 134.

The spring vacation of 1818 he employed in studying chemistry. The beginning of the term found him in a very low state of health, and he reluctantly obtained leave of absence. He went to Andover, in the hope, that a short residence there would restore him. 'But,' says his biographer, 'it was now too late; and no medicine, nor change of place could restore a frame, worn out by intense study, and hastened in its decay by the agonies of an aspiring mind struggling under the pressure of poverty.' Sick and feeble as he was, however, he now resolved to make one last effort for satisfying the impatient desire, which he had ever felt, to know his parents, and the story of his birth. His maintenance, until the time of his apprenticeship, had been paid for by a gentleman residing at a distance of about sixty miles, who professed himself to be acting as the friend of his father. Repeated but unsuccessful applications had been made to this gentleman by Person, and by his friends at his request, for the information, which he so anxiously desired. He now resolved to urge his request in person, and for this purpose he undertook and accomplished a journey into New Hampshire. The interview was granted, and upon his pressing his inquiries in the most determined manner, declaring that he would not go till he was satisfied, he was told the name of his mother, 'which he is not known,' says his biographer, 'to have disclosed,' and some particulars of her person and history. She had then been dead about two years. He received no answer to his questions respecting his father. He

was kindly and hospitably entertained by the gentleman, to whom he applied, and not only liberally assisted for the present, but dismissed with a promise of a future provision for his clothing and maintenance while at college. This promise was punctually performed, but the relief came too late. Person survived this visit but a few weeks. On his return to Cambridge, he was unable to perform his college duties, and continued daily to decline, though tenderly watched and nursed in the house of a friend, till the 11th of October 1818, when he expired. 'His death was as gentle as his life. No wild and tumultuous passions disturbed the holy calm of either.'

It is some solace to our grief for those, whose lives have been long and eminently useful, that the good they have done lives after them. There are numberless memorials of the genius and worth of truly excellent men, which remind us continually that they have been; and while any of these remain, they can hardly be said to have died. The form of their existence only seems to be changed. It was the mind that we valued and that is still seen reforming, instructing, delighting mankind. But when the lot of death falls upon a young man, who has given proof of generous ambition supported by uncommon powers, we feel that we have sustained a loss of unknown extent. There is full room for the imagination to weary itself in tracing that future, which now can never be. What we before anticipated we lament, as if we had actually possessed it. We think little of the accidents, which might have occasioned a more painful disappointment than even death. If we had before any doubts, they vanish now; and we think ourselves certainly deprived of what we had only a distant and uncertain prospect of enjoying. But this disposition is proportioned to the nearness of our interest and the degree in which it is peculiar. The mother, mourning for a beloved child, can never be persuaded that he would not have possessed every virtue, which a parent's heart could wish. The soldier, disappointed of a battle, never doubts, that he should have returned from the field covered with glory. The merchant, whose ship is driven back by tempests, counts up his gains, and deplores his hard fortune in the loss of them no less than if they had already made a part of his store. When, on the other hand, it is the *promised* scholar, divine or statesman, whose expected public services death

forbids us longer to look for, there is little liveliness of regret in any, but those who feel the warmth of personal affection. Others, however well assured of the reasonableness of the hopes, which had been formed, consider themselves as only remotely concerned in the event. Had he been long the object of their trust and confidence, had they been accustomed to rely on him in times of danger, had they experienced the benefit of his instructions or his benevolent labours, gratitude would claim a tear, and they would follow him to the grave with a heavy heart. The aged patriot or philanthropist may have done all that in reason he could be expected to do. Every talent, he possessed, may have produced some useful and lasting effect. We may be deprived of nothing but the sight of a form, venerable by age, and worn out with exertion. Still, there is a feeling, superior to interest and calculation, which fills us with melancholy, and a oppressive grief when such an one is gathered to an honourable tomb. The world is not so ungrateful as many would represent it. Envy and jealousy may oppress and obscure while living, but the fault is sure to be redeemed, in a succeeding generation, by an ample measure of honour and fame.

A public sorrow for the dead must be earned by being really useful. The promise of being so may cause some regret in those, who are thoroughly persuaded that the promise would have been performed. But it is a cold and interested sorrow, very different from that, which spontaneously bursts forth when the grave closes over one, whose life has been a common blessing. Those, however, who have diligently employed even a few years in laying a foundation for future usefulness, have not lived in vain. A faithful narrative of their patient, persevering labour, their zeal in seeking all valuable knowledge, and their praiseworthy desire of excellence, may excite and direct others. Such narratives, too, make even strangers feel something of the same interest, to which we have just alluded, as belonging to those, who are bound to the deceased by some peculiar tie. It is one of the principal uses of biography, that, by exhibiting the common occupations, thoughts, feelings, designs, attachments, and aversions of the subject of it, it infuses the feelings of private and personal friendship into every reader. Hence the aid, which this sort of writing derives from familiar letters, coming warm from the heart, and artlessly disclosing the inmost workings of the soul and

the affections. We are often most pleased to gather the incidents of a life from such letters. The hero tells his own story. We seem to live and converse with him, and thus acquire that familiar acquaintance, which makes every fact important, that has any influence on his happiness. The letters contained in this volume, though comprising a short period, not much enlivened by adventures, can hardly fail to give a lively and pleasing impression of the writer's mind. Some of them are the letters of a very young man, but of one remarkable for maturity of understanding, and placed in circumstances, which command our sympathy. We witness the gradual progress of his reason; we see it expanding and acquiring strength. We see him suffering poverty and privation, and disease, yet still applying himself to study, with unbending resolution. We see him surrounded by the most discouraging difficulties, yet still maintaining, for the most part, an unbroken cheerfulness. 'At one time,' he says in a letter to a friend, 'I look forward to the termination of my literary course with pleasant and hopeful expectation; at another, a thousand difficulties intrude and oppose my passage to the "temple of science." Hope and perseverance, however, still keep uppermost; and, strengthened and encouraged by the exercise of these principles, I may struggle through the rough road of poverty and trial, and finally obtain my destined object.' (p. 89.)

In a subsequent letter, written soon after attaining the age of twenty-one, he complains of the difficulty of shaking off boyish habits; but as a proof that he had his serious moments, he adds an ode to Contemplation, from which we select the following lines:

'Shew me the green, delightful bower,
Where friendship passed the happy hour,
While pure, its little realm;
Show me the hills, the trees, and fields,
The plants and flowers the garden yields,
And venerable elm.

'Nor here abate thy fancied course,
But inward fly with filial force,
And search the lov'd domain;
O'er every inmate gently bend,
And say of each, "here lives a friend,
And such will e'er remain!"

'O happy thought! O heavenly power!
That thus can charm the lonely hour,
And soothe my pensive breast!
Be thou, Imagination, near,
For absent joys, do thou appear,
And lull my cares to rest!' pp. 92, 93.

There are several poetical pieces in this volume, some of a light and others of a graver cast. They discover, in general, a good taste and a facility of expression. Most of them were written before he went to Cambridge. Had he lived, it is probable he would before long have ceased to cultivate this talent; for it is evident, that he was not destined to acquire fame as a poet. We shall insert but one further specimen of his poetry. It is an ode to Reflection, written at Providence, May 1817.

'The sun in the west is slowly descending,
And day's lucid visions recede from our view,
While night's sable curtain is gently extending
To envelop the world in darkness anew.

How sweet is it then to indulge recollection,
To prove the kind bondage of memory's chain;
The present forego, and in fond retrospection
Live over the scenes of our childhood again.

The sun of our life, how bright at its rising!
Unobscured by a cloud it darted its ray!
And in lustre, to youth's ardent hope most enticing,
Portended a brilliant and peace-ruling day!

How sweet was our friendship, how pure were our pleasures,
How fond our attachments in youth's glowing age!
Untaught to succumb to adversity's pressures,
Or feel the keen blastings of envy and rage.

How Fancy's bland visions conspired to invite us,
And joy in prospective perennial held!
But alas! her illusions soon ceased to delight us,
And dark disappointment her radiance veiled.

Now tossed on the billows of life's troubled ocean,
While hope faintly beams on each sorrow-fraught wave,
We wait for that rest to succeed the commotion,
Which heaven preludes in the sleep of the grave!'
pp. 186, 187.

We would not be thought to offer this work as possessing any important claims to the attention of the literary world. It is modest and unpretending, and taken for what it professes to be, the history of a youth of amiable and excellent character, of extraordinary powers of mind, and animated by an irrepressible zeal for knowledge and usefulness, we trust it will not be found barren of amusement or profit. We may sum up the history of Person in his own words—'a poor mechanic, wholly destitute of pecuniary means to assist himself, without parents or friends to aid him, unfavoured by any efficient patronage, and going too among strangers, sought an education; succeeded; has actually passed its first stage, and is commencing its second, in the first literary institution in the country! Never let one despair of success in a similar enterprize hereafter!'

ORIGINAL MISCELLANY.

ON THE STUDY OF THE CIVIL LAW.

The civil law is frequently stigmatized, in the books which now form the basis of our legal education, as being in the highest degree unjust and arbitrary; yet it is not easy to believe that a code can be otherwise than excellent, which has appropriated to itself an epithet originally common to every system of municipal jurisprudence; which is esteemed the perfection of written reason by so many enlightened nations, and which is the fountain of all the most admirable legal doctrines and maxims that pervade the continent of Europe. Republics in abundance, and those of the most jealous spirit of freedom, have made it their model and their text-book: how, then, can its principles be so completely and dangerously despotical?

The compilation of the civil law was made near the close of that long period of brilliant mental illumination, which has immortalized Greece and Rome. We may, therefore, consider it the spirit of all that is most perfect in the jurisprudence of antiquity: since it is a selection from the voluminous opinions, decisions, and decrees of the most eminent lawyers, magistrates, and legislators of that and preceding ages, arranged in a systematic form, and published with imperial magnificence.

Comprizing then the collected legal wisdom of antiquity, written with classical elegance of language, and constituting the foundation of all the codes of modern times,—may not the civil law reasonably pretend to some value in our esteem, and a proportionate place in our system of preparatory legal education?

The civil law constitutes, as has been before remarked, the basis of the codes of almost every people in Europe. But

the laws and jurists of those people have other claims on our consideration, apart from the light which they throw on the principles and character of their parental jurisprudence. Men of the greatest talents, learning, and ingenuity, who have made the science of law the study of their lives, must be capable of affording us some valuable instruction, if not on subjects directly applicable to the wants of this nation, yet on many others of indirect utility. The laws of all countries being derived from the same source,—the situation and circumstances of men,—there cannot but be considerable correspondence in them, which should render them all mutually beneficial to jurists of different countries, and therefore worthy to be carefully examined. Besides, it is by comparison of our rules and practice with those of foreigners, that we become fully sensible of what is defective or excellent, and therefore of what is to be cherished and upheld, or to be disapproved and abolished in our institutions. Nothing more inevitably checks improvement than a jealous or contemptuous rejection of foreign, and an over weening admiration of domestic habits, customs, and principles. National attachment should never cease to be cultivated ; but we ought to be as far from despising, as from servilely imitating, the peculiarities of other countries.

These are general and antecedent titles to regard in the civil and continental law ; but there seem to be several particular advantages in the study of this law, of much greater weight, because immediately growing out of our national character, situation, and circumstances. For as the common law, in strictness of language, arose from the feudal system, and therefore chiefly concerns the several relations of landed estate, it is necessarily defective in many things now of the highest importance. Not that the common law does not contain rules relative to some of the particulars presently to be mentioned ; but they are rules which it has adopted and imitated from the civil and continental codes, where alone we can find those rules in their proper and original fulness.

First, the civil law comprehends many things relative to personal rights, which are of special usefulness in this nation. The distinction between alien and citizen, and the rights and disabilities springing out of that distinction ; the powers, duties, and disabilities of guardianship, infancy,

mental alienation and marriage; the nature and qualities of corporate bodies or colleges;—are indeed continually discussed in common-law books, but it is to the civil law that the maxims, rules, and principles, regulating them in fact belong. The feudal relation of vassal and lord is the source of the principal doctrines of the common law concerning personal rights; and as this source was incapable of furnishing all the rules required by the subsequent progress of civilization, the common law was obliged to resort to the continent for the supply of its own radical and essential deficiencies. We must borrow too from the civil law the rules on another subject in this class, with which this part of the nation has no connexion, but which in another part of it is of but too great importance, to wit, involuntary servitude.

Secondly, although our laws of property are essentially of feudal origin, yet in some very considerable sections of them we are expressly referred to the civil law for guidance. These are the laws relative to the descent and distribution of the lands and chattels of persons deceased intestate, on administration, on the probate of wills, and on other matters of a testamentary nature. As to most of these subjects the common law is obstinately silent; as to the rest so palpably ridiculous and unjust, that our ancestors repealed it among the first acts after their emigration. As the colonial charters generally granted lands in this country by the tenure of gavelkind, the colonists instantly took advantage of this to introduce certain other peculiarities of that customary tenure, and especially gavelling: and such was the origin of our present mode of distribution. This system is altogether republican; and therefore, although prevailing in England before the conquest and still existing in a few little spots, it is really foreign to the true laws of England, but is one among the many free principles of the misrepresented code of Rome. Our probate and testamentary laws are confessedly no part of the common law, wherein the very right of devising is an exotic, and an innovation on the privileges of feudal superiors.

Thirdly, the law of chancery is a subject that is constantly growing more interesting in this country, as most of the states have now admitted some equity powers into their judicial system, although it is hoped that equity will never be with us precisely what it is in England. And since the max-

ims of equity either derogate from the common law, or at least introduce into it novel principles, the common law can aid us but imperfectly in this department. Now the chief rules and methods of proceeding here are in fact close imitations of the civil law; for the chancellors, having been originally churchmen, entertained little respect for what they considered the rude customs of barbarians, and the lay chancellors in later times found it necessary for want of any more eligible resource, to give perpetuity to the system which their predecessors had introduced. Therefore it is apparent that we must study the civil law in order to be capable of proceeding with any credit in chancery causes.

Fourthly, the civil and continental law is the repository of all the principles by which national intercourse is at present regulated. For as Rome was so long the metropolis, not merely of a single country, but of the whole civilized world, nations were impleaded in her august courts, as men are in our puny tribunals; and thus her code came to contain a system of international, as well as municipal jurisprudence. The rights of ambassadors, public comity, the maxims regulating the declaration, conduct, and duration of war, the structure and interpretation of treaties, the principles of confederate union, every thing which is included in the term national law, is therefore an important and copious part of the code of Rome. All the modern writers on this extensive subject are to be considered little else than civilians, or expositors of that system, from which almost all our notions of natural justice are immediately deduced. Whoever is ambitious of the character and rank of a statesman must therefore unavoidably become a civilian; and even they, who do not look so far, nor aspire so high, cannot easily dispense with a knowledge of the laws of nature, of nations, and of the world. But a remarkable circumstance in our political situation renders this knowledge still more valuable. This republic is composed of numerous federate republics. It is not merely divisible into provinces, but likewise into states. Multiplied relations arise from this circumstance, of which the common law never conceived, and for which it of course contains no provision. We have therefore constant occasion for applying the rules of the civil law concerning international intercourse.

Lastly, the civil and continental law is the origin of all

that law, mercantile and maritime, which now regulates our most important affairs, as a commercial people. The feudal law did not know commerce, it opposed all alienations, the very essence of commerce; it regarded nothing but war. Therefore, when England began to seek maritime rank, and to encourage commerce, she was compelled to borrow laws on this subject from those states, which were previously concerned in navigation. Now these states, which were chiefly a few petty communities, had each their distinct maritime laws or customs; and out of these, together with the civil law, have our existing maritime regulations sprung. Such were the consulate of the sea, the roll of Oleron, the ordinances of Wisbuy, and of the Hanseatic league, the standard of the sea, and the marine ordinances of France; which, agreeing in many particulars, in some disagreeing, and collected in various forms, are still referred to as of great authority, if not as decisive and paramount. But here the common law entirely deserts the student. Marine affairs were entirely foreign to it, until within a very recent period; and, although one of her kings published an ancient code of marine ordinances, which continues to be cited, admiralty law was for a long time spoken of with opprobium, and considered no part of the substance of the proper laws of England. The remaining part of our mercantile law has been generated in a manner somewhat similar, though distinguishable. Some of it could not avoid creeping into the common law, in spite of the total difference of their nature and origin; but as the common law was feudal in its principles, English merchants were in the habit of regulating their concerns by mutual agreement or by established customs, which a number of the most respectable among them applied to disputed cases. We must therefore look elsewhere for guidance in the law, mercantile as well as maritime; and the civil law supplies a very large portion of the requisite principles; for it is remarkably copious on the subject of contracts, covenants, and obligations, which are the topics most frequently discussed in the commercial world. And although in marine law it is not so full, yet there it contains many valuable rules copied from the customs of some of the maritime republics of antiquity.

Let it not be supposed, however, that the common-law books contain nothing on subjects of mercantile interest;

they have been borrowing freely from the civil and continental jurists, ever since the time of Bracton and Fleta, generally without acknowledgment; so that the common law is now credited for much that is not its own proper excellence. And since the time when fortune or public convenience transferred the cognizance of mercantile affairs in England from private to public tribunals, the courts have been compelled to adopt numerous principles of law from the jurists of the continent. The modern reports, therefore, and especially those of the last century, are exuberantly rich in mercantile law; but this can hardly be said to belong to the common law, since it is professedly borrowed from foreign sources of intelligence. It is probable that the extraordinary English judge, who presided over the common law for a third part of the last century with so much benefit to his country and glory to himself, derived much of his success from the peculiar character of his knowledge as well as mind; for, without disparaging his unerring acuteness, his close, systematic reasoning, or his vigorous intellect, it is apparent that he had drunk deeply in the streams which flowed from the imperial constitutions of Justinian.

The law, merchant and marine, of this country has been formed by the union of our own statutes and decisions with all the systems above enumerated. The common, civil, and customary law of Europe have each precisely the same force with us in this branch; that is, our courts study them all, and adopt from them whatever is most applicable to our situation, and whatever is on the whole just and expedient, without considering either of course obligatory. If Mansfield, Scott, or Ellenborough, is cited with deference or praise, so likewise are Bynkershœk, Valen, Cleirac, Pothier, and Emerigon. The authority of a decision or opinion, emanating from either of these sources, is rested on exactly the same foundation, viz. its intrinsic excellence. And if we seek instruction on mercantile law from jurists in England, why not seek it from their masters on the continent of Europe? Why do we not go to the fountain-head? Why do we content ourselves with second-hand information? In fact all eminent lawyers in this country sooner or later find it necessary to study the law books of the continent; but such a course ought to be more early and universal, the continental law ought to be made an important, it might almost be said the most important, branch of elementary legal education.

STUDY OF THE CLASSICS.

That we owe much to the Greek and Roman writers is now, we believe, generally admitted in every country but ours. For two thousand years, the literary world have acknowledged them as their masters, and none have proclaimed the benefits of their directions and their example more gratefully, than the very English authors, whom we have lately heard extolled at their expense. It is not our intention to dwell on the merits, by which the ancients have gained their present celebrity. Few if any of those who have thoroughly studied their works, have denied its justness. and those who have not, will, we hope, think it a sufficient inducement to examine candidly for themselves. Men are certainly bound to respect an opinion supported by such an enlightened multitude, and tested by such a lapse of time, till it is contradicted by fair and competent judges. We do not deny that classical literature has been extolled in too high and unqualified a manner, that its real benefits have been mistaken, that it has been represented as the only source of advantages which belong to it in common with other branches of knowledge, and recommended by many of its votaries, not always the most enlightened, for imaginary merits; nor do we consider it, as it is sometimes thought in England, the first, second, and third subject of attention, the sum and substance of all useful knowledge, the only basis of a wide and lasting celebrity.

It is indeed a bright, but by no means the only ornament of a cultivated mind. The Latin and Greek classics are best studied in conjunction with the finest English writers, and not to the exclusion of them. Though much more is learned of a foreign language by writing, than by reading it, and to a certain extent poetry is better for this purpose than prose, yet we do not deny that the practice of composing Latin verses may have been sometimes carried so far as to sacrifice the end to the means. Neither do we think that the warmest rational admirers of the ancients can well justify the practice, now prevailing, of frequently introducing passages from their works, in addresses to popular assemblies. There is no very evident reason why a line from a classical author should be treated with the veneration formerly paid to a sybilline verse, why a speech, perhaps on the most familiar subject, should be interspersed with trite and pompous extracts

in an unknown tongue. It would be absurd to say, that on such occasions, Latin and Greek quotations are always inadmissible; but as the happiest of them can gratify only a small part of a respectable audience, at the expense of all the rest, we think those only should be allowed, which are absolutely indispensable, peculiarly appropriate, or strikingly novel and beautiful. We have said the more on this subject, because we think that the friends of classical literature are bound to oppose every symptom of the affectation and pedantry, which have tended in so high a degree to render it unpopular.

It is for far other reasons that we plead for the introduction of these studies among us. It is to correct the bad taste, which, more than any thing else, has checked the growth of American literature. It is that we may have good authors in English, and great readers of Greek and Latin; we wish that those who compose may compose better, and that those who are too indolent to write may be more able to judge. The ancients are certainly of little practical use, if we read them merely to treasure up their striking expressions. We should strive to catch their spirit, and imitate their mode of thinking, and peruse the works of great authors, as we contemplate the lives of good men, that we may learn to be governed by the same general principles. We value classical literature, because we think it sheds a light on our own, and not because we imagine that it possesses, like the vestal flames of the ancients, a mysterious influence on the welfare of the country where it is cherished. There are some, however, who admit to a high extent the excellence of the Greek and Roman authors, but deny the expediency of studying them in the original. All those which are worth reading, say they, are ably and faithfully translated, and why go any farther. This opinion is generally confined to men, who have read the ancients, if at all, only to a small extent, or at a late period of life, but has been embraced in this country, perhaps hastily, by several individuals of sense and candour. We grant for a moment, that the classics have been thus generally and faithfully interpreted, and we consider many of these versions as valuable accessions to English literature. There are so many men, whose course of life prevents them from acquiring a thorough knowledge of the originals, to say nothing of almost the whole of the other sex, that few authors deserve the thanks of society better than able and judicious transla-

tors. So rich is the literature of the ancients, that much which is valuable is preserved in any tolerable interpretation; but it cannot be denied that much is wanting in the most accurate. The nice touches, which more than any thing else indicate the hand of a master, are precisely those which it is most difficult to copy, or to imitate. Besides is it nothing that we lose their own style, that we converse with the sages of antiquity through an interpreter, instead of listening to the simple, precise, and harmonious expressions, which they themselves have chosen? Do we not necessarily seek their instructions with less ardour, hear them with less interest, and remember them less tenaciously? Those, too, who consider the intimate connexion between thought and language, who are sensible that the charms of the idea are often so delicately blended with those of the expression, that it is impossible to discriminate between them, must allow, that by stripping a work of its original language, we divest it of much more than mere verbal beauties. How particularly must this be the case in translating poetry. So different is the structure of Greek or Latin verse from that of English, that the utmost which can be done by the ablest translator is, not to preserve all the beauties of the original, but to compensate as far as may be for the loss of many of them, by others of his own. The most popular poetical translations are proverbially inaccurate, and who that has studied, however slightly, the Iliad or Æneid, does not know, that in reading them in English, it is not so much Homer and Virgil that we admire, as Pope and Dryden. Cowper determined to be faithful, and with all his genius is often prosaic, and it is owing only to his original works, that his versions are, we will not say read, but published. How little should we think of an opinion formed of Milton by a foreigner who had read him only in De Lille, and yet how few authors are there like Pope or Cowper, or even like De Lille, who are willing to undertake a task so laborious, and yet, as it is generally considered, so inglorious as that of a good copier. Such men are inclined to believe, that fidelity to their authors will contribute far less to their own celebrity than splendid deviations, and that exactness is a merit of a lower order, and of course are continually tempted to lose the translator in the poet.

There are other advantages, besides the intrinsic merit of the ancient classics, amply sufficient to repay us for devoting

a few years to the study of Greek and Latin. We have said something in a former number,* on the benefits of this pursuit, as a discipline of the mind. Indeed, we know no kind of labour, so well adapted to the general improvement of the faculties in early youth. Mathematics and metaphysics, and those only, are equally effectual in forming habits of accurate and constant attention, and those are better fitted to the force and the taste of mature minds. Besides, in studying those the fancy is completely chained down, instead of being at once strengthened and chastened, as it must be in the perusal, of even the most embarrassing of the ancient authors. This advantage is surely by no means inconsiderable, and ought of itself to exempt the classics from the reproach of being utterly useless. But it might be asked, why our faculties may not be equally improved by acquiring the finest modern languages. To this we should answer, as on a former occasion, that there is time enough for both, and the more so, because, in learning the ancient, we make imperceptibly, a considerable progress in the modern. Besides the mental discipline to which scholars are necessarily subjected, in studying the meaning of Greek and Latin authors, they may derive another, and perhaps a greater benefit, from the practice of construing them.

If in this exercise they are properly directed and assisted by their instructors, there is scarce any, through which they can so soon arrive at a command of their own language, through which they can be so well and so quickly taught, to suit the expression to the idea, and not the idea to the expression, and to speak and write on all occasions, however sudden, elegantly, yet definitely. This part of education, important as it is, was, till within a short time, scarcely regarded in this country. Little else has generally been required than that the author should be done into English, no matter how clumsily, and the extempore translations of pupils have seldom displayed any thing more, than, to use an expression of Horace, the disjointed members of the original. Some of our instructers have now adopted the custom, of exacting a neater and more connected method of construing, and we believe that none, who have observed its effects, will think that we have overrated its advantages. This is a source of improvement, which can be enjoyed in a high de-

* Review of Wells' Tacitus.

gree, only by the students of dead languages. The living are generally taught, for many incontrovertible reasons, by natives of the countries, where they are spoken, who, however great their abilities and assiduity, can seldom know enough of our own tongue, to assist their pupils in translating exactly and elegantly. A boy may acquire in the same period even more of a modern than of an ancient language, but he will improve himself far less in English.

Much as has been said of the importance of learning Latin and Greek, because they are the sources of so large a part of our own vocabulary, we think that their consequence in this respect is in general greatly underrated. Without some knowledge of etymology, it is next to impossible to distinguish the nice shades of meaning, on which depend so many of the most delicate beauties of eloquence. He who wants propriety of expression, can never be elegant, and he who possesses this in a high degree, will need little if any thing else. It has not, however, been the custom of the enemies of classical literature to examine its alleged advantages, even for the purpose of disproving their existence. They have generally preferred dwelling on some loose objections, founded on its supposed tendency to contract or incumber native genius. To this and to no other cause do they attribute the pedantry, prolixity and stiffness of the writers of the sixteenth century. That these faults exist cannot be denied, but if such are the works of the authors of that age who studied the classics, what are the works of those who did not? It is not the question, whether Taylor and Barrow wrote better than Addison and Goldsmith, but whether they wrote better than their contemporaries, and whether their faults are not owing to the century in which they lived, rather than to the studies which they pursued. Milton's works are indeed incumbered with classical learning, but they owe to it many of their ornaments, and we think that his beautiful allusions more than repay us for his excessive display of erudition. No arguments, however, are oftener brought forward to prove that ancient literature is injurious as well as useless, than those drawn from the examples of Shakspeare and Franklin. Now if we would make Shakspeare's greatness the foundation of a general rule, we should say, not that youth should never receive a classical education, but that they should receive no systematic education at all. This would certainly be an easy

experiment; but after the fair trial, which has been given it in at least some parts of this country, we may venture to doubt its general success. We fear that most of our youthful followers of Shakspeare have contented themselves with imitating his early excursions in other fields than those of fancy. Besides the supposition that Shakspeare, if better taught, would have written worse, is entirely gratuitous. He has been great not by infringing the rules, but by surpassing the models of antiquity. It is not his confusion of time and place, his mixture of tragedy and comedy, which delight us, it is his sublime moral sentiments, his strokes of nature, his command of every avenue to the human heart, his possession, in short, of those excellencies, from which all rules of good writing are drawn, and the passages which readers most admire are those which critics would least condemn. A thorough knowledge of the classics could never have encumbered or perverted his genius, but it would have brought a new world under the dominion of his fancy, it might have refined his taste, and prevented those faults which, by a sort of fatality, generally follow closely in the rear of his beauties.

The success of Franklin, like that of Shakspeare, would prove too much, and should prevent us from studying not only the ancient, but the modern languages; for if he was unacquainted with the former, he knew also, at least till an advanced period of life, but little of the latter.

Those too who would elevate him at the expense of the great progenitors of literature, should consider that he selected, as a pattern, the style of the very author, who, of all others, most obeyed the rules and imitated the models of antiquity, the classic Addison. Surely Franklin could not have been seriously injured, by consulting the leaders, instead of the follower. But what force can we allow to a few examples of those, who have succeeded without the aid of classical knowledge, when we find them opposed by the opinions or practice of such a vast majority of men of genius in every country of Europe, when we consider, that the general principles of the rhetoric of Greece and Rome, like those of their architecture, have been adopted by universal consent in every enlightened country, and though variously modified, have been rarely, if ever, successfully contravened.

Classical studies are, however, often represented in this

country as the luxuries of older communities. We want practical, it is said, and not learned men. Why should we rouse the ancients from the sleep of two thousand years, to instruct us how to live under political and religious institutions, so essentially different from theirs? What have Greece and Rome to do with the nineteenth century, and the western world? To this we answer, that if education be confined to the arts necessary to procure us the physical comforts of life, it must be narrow indeed. But this kind of reasoning has, we believe, no higher sanction, than the authority of the Dutch professor in the Vicar of Wakefield. 'You see me, young man, I never learned Greek, and I don't find that I ever missed it. I have had a doctor's cap and gown without Greek; I have ten thousand florins a year without Greek, and I eat heartily without Greek. In short, I don't know Greek, and I do not believe there is any use in it.' With how great force might such arguments be applied to the whole circle of sciences, and in which of them could our youth, in general, be profitably instructed? How plausibly might Galileo or Newton have been addressed in a style similar to that, in which the classics have been lately attacked in our newspapers. What have you to do, one of these practical men could have said, with worlds millions of miles from ours? The earth is your sphere of action, you will find more than enough there, to engage and reward your attention. How little has society gained from studious astronomers. It is to men comparatively unlettered that we owe the invention of the compass, and the discovery of the western continent.

Whatever we may think of reasons like these or of the worth of classical studies, yet if we determine to make them an important part of education, we must of course inquire how much time can be spared from our indispensable avocations. Our laws are as unpropitious to the transmission of great estates, as our situation is to the acquisition of them, and few are exempted from the necessity of entering early into active business, to provide for their own subsistence. The superintendence of our instructers generally ceases with the first twenty years of our life, and the farther culture of our minds is left to our own judgment and industry. It would be idle to recommend any plan, which, in a vast majority of cases, would be controlled and

broken by particular circumstances, and yet it is manifest that a very extensive knowledge of the classics could hardly be gained in the time which their most zealous votaries could give to them, within that period. This, however, would not be necessary. We should wish not to force the student to labour through the ancients, on the faith of general opinion, but to put him in a situation to judge of their value for himself. This can only be done by smoothing those obstacles before him in his childhood, which are best conquered then, and most embarrassing at a later period. If he sits down to read the dead languages at a maturer age, perplexed with the little niceties of idioms, of syntax, and of quantity, what can be expected, but that he will give up a task so irksome, long before he can realise the reward of his labour, and that judging very naturally, from a short and painful experience, he will think that the celebrity of the classics is founded only on their difficulty.

Be their merits what they may, their general reputation should certainly entitle them to a fairer trial than this. Were our countrymen enabled to judge impartially, by a proper education, there would be little difference in their decisions, or if any should conclude that the object was worthless, they could not but feel that the pursuit had been salutary. If we are told that by this system of instruction, we may inspire students with early prejudices on a question which we profess to leave open to subsequent inquiry, we answer that of all opinions, those founded in ignorance best deserve, from their very nature, the name of prejudices, that if we are disposed to overrate what we have gained by our own exertions, we are still more ready to undervalue what we are too indolent to pursue, that we can learn the value of any species of science or literature (if we refuse to trust to its established reputation) only by examining its merits, and that we can never do this, without the hazard of imbibing at the same time prepossessions in its favour. If the student knows the classics, particularly if he has become acquainted with them by his own investigation, this it would seem forms a very conclusive argument against any testimony which he can give to their advantage.

Between the ages of ten and twenty-one we believe that the experiment could be made fully and fairly. We do not ask that additional years should be devoted to the dead languages, but

that those already assigned to the study of them in most of our large cities, should be laid out to a little better purpose. From our almost entire want of actual examples, it may be difficult to conceive the progress which might be made in the classics in that period, without neglecting any other essential part of education. When we consider that in the time just mentioned, the course of education in England, elaborate as it is, is often finished; that in ten years we read about the same number of volumes in the dead languages, that students of common abilities have often a large portion of their hours, both at school and college, at their own disposal, we may be justified in believing, that our present striking inferiority in this species of knowledge must result from a want either of assiduity or of method. Some improvements have already been made in our classical schools, and with such zeal and rapidity as to support the public in hoping and expecting many more; and unless our colleges (which we presume is the case) are now undergoing very material changes, they must soon sink far below their present relative elevation.

The trifling advances which our youth generally make in the dead languages is by no means the strongest objection to the systems of instruction prevailing among us at present. Our acquisitions are as unsatisfactory as they are limited, and at the close of our college life we escape gladly from ancient literature, as from a thorny labyrinth, in which we have been compelled to wander without profit or pleasure by the tyranny of custom. By pursuing a different course we should be enabled to enter the world with much higher classical attainments, and what is far better, with a much stronger disposition to preserve what is already gained, and acquire what is yet wanting by solitary industry. Much must be left after all to ourselves, for in mentioning the short period which might be given up to public education, we have considered rather what is practicable, than what could be desired.

We need not fear but that the classics, if pursued with tolerable assiduity, under judicious instructers, will recommend themselves sufficiently to the student to engage much of his leisure during the remainder of his life. They will always afford him, if nothing more, an elegant amusement, for this is evident from the unaffected enthusiasm, with which they have so often inspired their assiduous votaries. It is in this

country particularly, where we have so few either of the injurious or innocent luxuries of older communities, where the most unexceptionable of all, the fine arts, are considered by many too expensive to be cherished as they deserve, without the aid of government, that we should value a source of recreation, so pure, so copious, and so accessible. We have said nothing of Latin as the original language of the civil law, nor of Greek as that of the New Testament. Both theologians and lawyers are too sensible of the importance of a minute accuracy on legal and religious subjects, to trust completely to the fidelity of any translation. It would be equally unnecessary to combat the objections sometimes adduced against classical literature on account of the pagan mythology. To us they appear about as well founded as the opposition of Rousseau to the perusal of fables by children, because truth is violated by representing brutes as speaking and thinking. We think the false mythology of the classics more than outweighed by their enlightened ethics, and it is not the least of their claims to our respect that they diffused the light of morality over the most cultivated nations on earth for ages preceding the dawn of Christianity, and have since lent no inconsiderable aid to her influence.

> '——————— These soft fires
> Not only enlighten, but with kindly heat
> Of various influence, foment and warm,
> Temper and nourish, or in part shed down
> Their stellar virtue on all kinds that grow
> On earth, made hereby apter to receive
> Perfection from the sun's more potent ray.'

Had we been content to rest the question, which we have endeavoured to elucidate, on authority instead of argument, we should have saved much labour to ourselves and our readers. What was the opinion of the first settlers of New England, those ancestors whom we extol so loudly and justly? Did they look on classical literature as injurious, as useless, or even as merely ornamental? Did they consider it as a luxury of a doubtful tendency, to be introduced, if at all, only in opulent communities? Was it not one of the earliest and most favoured objects of their solicitude, and that too while they were continually struggling with the most doubtful prospects for their very existence? Yet these were not prejudiced theorists, not mere book-worms, not men who re-

tired from the duties of society to indulge themselves in heaping up a mass of knowledge, which should remain concealed in their own bosoms till it descended with them to the tomb. They were men who read, that they might the better think and act, who considered acquired information rather as the source of wisdom than as wisdom itself, and as most valuable for the original reflections which it awakens; who felt that we should study the works of others, to render our own minds the fountains, rather than the channels of instruction. They saw the connexion between one kind of useful knowledge and another, the influence of what we read on what we write, and say, and do; of contemplation on practice. It was for the purpose of securing as well as ornamenting their civil and religious institutions, that they raised at an early period those classical seminaries which we have done comparatively so little to enlarge. Scarce a generation has since passed away without leaving a living testimony to the correctness of their views in the characters of many of its most distinguished citizens. Were we as liberal in proportion to our means as our forefathers, the advantages of classical learning would be no longer a subject of discussion, for they would be too evident to be denied for a moment, if our youth could be enabled to pursue them with better success, by the improved condition of our schools and colleges. To render these what they should be, nothing is required but encouragement; and it would be an easy matter to remedy all defects in the machinery, if a proper force and direction could be given to the current of public opinion, which must set the whole in motion.

APPROPRIATIONS FOR THE SUPPORT OF LITERATURE IN THE STATE OF NEW YORK.

We avail ourselves with pleasure of the opportunity of correcting an error, and supplying a deficiency in an article of our January number, which is furnished by a statement in the Albany Argus of July 20. In speaking of the degree, to which our state legislatures had patronized the literary cause and establishments, we observed, 'that New York had liberally endowed Hamilton College,' leaving it to be inferred, that the literary bounty of our most powerful state had stopped

here. The statement in the Argus, to which we allude, furnishes abundant means of rectifying this error, and we take great pleasure in doing it. Several appropriations, it is true, enter into this statement, not of the kind which we had in view in speaking of the magnificent amount of the literary funds of Virginia and Connecticut. In justice to our own state, also, we ought to say, that though we have nothing which bears the name of a school fund, yet if a calculation were made of the whole amount of literary patronage, into which should enter the various donations to our colleges and academies, as well as the support of grammar schools, ordained by law in every town of the state of a certain size, it would probably appear, that quite as much was annually paid by the people of Massachusetts for the support of learning, as by any state in the union; without our being able to boast of a fund for this purpose. As our object of course is to attain only general results, we doubt not we shall be excused in the respectable quarter, from which the statement in the Albany Argus proceeds, for the abridgment we have made in its details.

From the Albany Argus, July 20.

Besides the reservation of two lots of six hundred and forty acres each, for the general support of the gospel and of schools and literature, in every township of the fertile and extensive tract of land set apart as a bounty to the officers and soldiers of the revolution, two distinct and separate permanent funds have been established and for ever set apart by the legislature; one for the support of 'common schools' throughout the state, and the other for the endowment and maintenance of colleges and academies, under the direction of the 'regents of the university.' A statement of the particular items of which each of these funds is at present composed, and of the revenues derived from them, as well as of temporary grants made for literary purposes, I beg leave to subjoin:

I. The fund for the support of common schools already amounts to - - - - - $1,229,076

In addition to which the net proceeds of all lands which may escheat to the state in the military tract are appropriated to this fund; and it is supposed that a very considerable increase will be acquired from this source, though no estimate can at present be made.

The revenue of the school fund for the last year was estimated at - - - 78,944

But an act passed in 1819 directs the payment and distribution, for the present year, of eighty thousand dollars, and annually thereafter not less than that sum, until the revenue of the school fund amount to ninety thousand dollars. A sum equal to the dividend upon the fund must be raised annually in the several counties, in proportion to the sums received by them respectively upon the distribution. So that for this year the sum of *one hundred and eighty thousand dollars* will be raised and distributed among the common schools established in convenient districts of every town in the state.

A particular additional fund, applicable to the same object, amounts to - - - - 3,832

Making an aggregate amount of funds permanently appropriated to the support of common schools, over and above the escheated lands, of 1,232,908

II. The fund 'for the promotion of literature' at present amounts to - - - 201,439.41

The income of this fund is annually distributed by the regents among the incorporated academies, and in special donations and endowments, and the revenue for the last year, exclusive of the quit rent, may be stated at - - - 5,288.74

Of this, the sum of five thousand dollars was distributed among twenty five incorporated academies, in proportion to the number of classical scholars contained in each.

Independently of these permanently established funds, which have thus been consecrated to the support of learning, the following occasional appropriations have from time to time been made:

I. To the regents of the University - 28,750
II. To Columbia College - - - 113,275
III. To Union College - - - - 418,500
IV. To the College of Physicians & Surgeons in New York } 68,100
V. To Hamilton College in Oneida county - 106,800

VI. To the College of Physicians & Surgeons in the Western District	15,000
Aggregate amount of grants to Colleges	721,675.00
VII. To the New York Historical Society	12,000
VIII. To incorporated Academies - -	35,800
IX. To Charity and Free Schools -	25,631.56
X. For a public Library at the seat of gov'ment	5,100

RECAPITULAITON.

Amount of school fund - - - -	1,232,908	
Amount of literature fund - - - -	201.439.41	
Aggregate amount of permanent funds, -		1,434,347.41
Amount of grants to the regents of the University		28,750
Amount of grants to Colleges, - - -		721,675
Amount of grant to Historical Society, - -		12,000
Amount of grants to Academies, - - -		35,800
Amount of grants to charitable and free schools, - - - - - - - -		25,631.56
Amount appropriated to State library, - -		5,100
Aggregate amount of occasional appropriations		828.956.56
Making in the whole the sum of - -		$2,263,303.97

And if to this be added the value of the escheated lands, and of the proportion of clerks' fees belonging to the school fund, together with the value of the unappropriated literature and school lots in the military tract, the general aggregate of appropriations for the support of education and learning in this state, during the last thirty years, exclusive of the annual revenue of the permanent funds, will exceed the sum of *three millions of dollars.*

I am, sir, your obedient servant,

W. A. D.

Albany, July 29, 1820.

As nothing will better guide us in our efforts for the encouragement of literature than an accurate knowledge of what has already been done, we should feel highly grateful to any person who will furnish us with statements, equally precise as the foregoing, of the extent of the literary appropriations in the various States of our country.

The Editors.

Quarterly List of New Publications.

BIOGRAPHY.

The Life of Com. Oliver H. Perry. By John M. Niles. $1,50. Hartford.

Life and Letters, together with Poetical and Miscellaneous Pieces of the late William Person, a student of Harvard University. 18mo, $1. Cambridge.

Memoirs of the Rev. Samuel J. Mills, late missionary, &c. By Gardiner Spring, D. D. $1. New York.

HISTORY.

Memoirs of the war in Spain. By M. De Rocca; translated from the second Paris edition. $1,50. Philadelphia.

Archæologia Americana. Transactions and Collections of the American Antiquarian Society. 8vo, vol. i. pp. 436, $3. Worcester.

History of Chelmsford, from its origin in 1653 to the year 1820. By Wilkes Allen, A. M. pastor of the Church in Chelmsford, 8vo, pp. 192, 62½ cts. Haverhill, Mass.

LAW.

Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1820. By Henry Wheaton. 8vo, vol. v. $7 New York.

Reports of Cases argued and determined in the Supreme Court of Errors of the state of Connecticut. By Thomas Day. 8vo, vol. ii. $6,50. Hartford.

MEDICINE.

The Sailor's Physician; exhibiting the symptoms, causes, and treatment of diseases incident to seamen and persons at sea. By Usher Parsons, M. D. 8vo, $1,50. Cambridge.

MISCELLANEOUS.

A treatise on Artillery. By H. Lallemand, General of the Artillery of the Imperial Guard of France. Translated from the manuscript of the author by James Renwick. 8vo, vol. i. and ii. $7. New York.

The Sketch Book. By Geoffrey Crayon, Gent. No. 7, 8vo, 87½ cts. New York.

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ERRATA IN THE LAST NUMBER.

Page 141	*line*	18	*for*	'Rowe'	*read*	'Roccus.'
142	"	36	"	'rational'	"	'notional.'
145	"	4	"	'or local topics, or debt, or bonds,' *read* 'on local statutes, or debt *on* bonds.'		
146	"	15	*for*	'suits'	*read*	'writs.'
149	"	21	"	'if'	"	'of.'
151	"	7	"	'conveyances'	"	'recognizances.'
153	"	10	"	'forms'	"	'powers.'
159	"	38	"	'rarely'	"	'easily.'
160	"	14	"	'and'	"	'or.'
165	"	7	"	'repeat'	"	'rejudge.'

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